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Human Rights Council
Thirty-first session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Federal Union of European Nationalities, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.16-02509(E)

Please recycle

Problems of the Rhodes, Kos and Dodecanese Turks in respect to the Right to Education and to Learning the Turkish Language

There is a Turkish population of 6,000 approximately in the Dodecanese Islands, and mainly in Rhodes and Kos. The Greece authorities do not identify the Turks in the islands as a "minority" due to the fact that they were under the directorship of Italia by the time of the Lausanne Peace Treaty of 1923. They call them "Greek Muslims". However, there are Greek authors mentioning the cultural identities of Turks living in the Dodecanese[1],[2].

This written statement has been prepared in order to draw attention to the problems of Turks living in the Dodecanese, about the right to education and to learning the Turkish language. Also other problems will be stated briefly. Among them, these issues can be mentioned: Turks living in the Islands and their citizenship, Destruction of Cultural Heritage from the Ottoman Turks and the Problem of the Waqfs (charitable Muslim foundations). [3],[4].

Problems of Turks in respect of Right to Education and to Learning the Turkish Language

Until 1972, education in Turkish language was given in the schools in Rhodes and Kos. Especially lessons such as history and geography were instructed by Greek teachers in Turkish schools in Rhodes and Kos. This was a remarkable matter. However, lessons such as physics, chemistry and mathematics were provided in the Turkish language.

The name of the Süleymaniye Madrasah, one of the last schools providing education in Turkish language in Rhodes, was changed into "Rhodes 13th City Primary School" in the year 1972, and education and training in Turkish has been forbidden since that date. The situation is same in Kos. Turkish teachers, carrying out their duties in these schools, were retired by force.

Today, Turks living in Rhodes and Kos go to the Greek state schools, but they are exempted from Christian religion lessons. Turkish children, taking education in the state schools, do not have the chance to develop their Turkish language skills.

Closing schools that were providing education and training in Turkish put the Turks in the Islands in a difficult situation. The Turks in the Dodecanese, who have the financial capability, send their children to Turkey in order to maintain their cultural identity. This situation may endanger the preservation of the cultural identity of the Turkish people living in the islands

The other remarkable result, arising from the exclusion of Turkish language from education in Rhodes and Kos, is the decreased educational level of the Turks. The Turks can make benefit of secondary schools and high schools, but the student attendance ratio is lower than the average in Greece. The decreased education level has affected their achievement in top-professions as well as intellectual level of the Turks. In Rhodes and Kos, there are no Turks who are doctors and engineers. It is known that there are no Turks working inside official institutions in Rhodes and Kos.

[1] Kaurinkoski, K., 2012. The Muslim Community in Kos and Rhodes: Reflections on Social Organization and Collective Identities in Contemporary Greece. "In Slavica Helsingiensia".

[2] Dimitrias, P., 2014. Minority Rights of Turks and Other Minorities in Greece."International Symposium on the Turkish Identity in Rhodes and Kos", İzmir.

[3] In the report The Situation of the Greek Citizens of Turkish descent in Rhodes and Kos" by Andreas Gross, member of the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe in 2012 and 2013, the problems mentioned above were confirmed, and in this regard, expectations were pointed out that it be allowed to state the Turkish identity freely, to have a voice in the management of waqfs, to activate the authority of the Mufti, to give lessons in the Turkish language and religion, to open the closed mosques and to reinstate Greek citizenship for the people in the Dodecanese, who lost their citizenship.

[4] Willy Fautre, 2016. Report of the Greece Ethnic Turks in Rhodes and Kos.

In the research named as "On Recent History of Turks in Rhodes and Kos" carried out among the Turks in islands between age 57 and 92, it has been observed that the average number of years of schooling of Turks in Rhodes and Kos is 5 years.[5]

Turks living in the Islands and Citizenship

Since the Islands were given to Greece in 1947, many Turks have immigrated to Turkey because their cultural identities were not accepted, because there was an environment of hatred and violence, and because they were not permitted to purchase immovable properties and to establish business.

After 1950, these persons who emigrated were forced to sign a document mentioning that they would not return to Rhodes. The Turks could not leave the Islands for many years due to the fear of expatriation. By the time these persons wanted to leave the Island, they had to apply to the foreigners department and obtain a visa for returning to Greece. The persons in this situation were permitted to leave the island only for 30 days. Today, it has been estimated that the number of expatriated persons was in the thousands.

The Problem of Destruction of Cultural Heritage from the Ottoman Turks

No permissions are given for maintenance and repair of cultural heritage from the Ottoman Turks, and repairing works are perfunctory and work of art is abandoned for the destruction of time.

For example, the fundament of the Süleymaniye Madrasah was excavated with the excuse of revealing works of the St. Jean Church, and destruction was stopped as a result of protest on national and international level by our member organizations, the Rhodes, Kos and the Dodecanese Turks Culture and Solidarity Association. Today, the Süleymaniye Madrasah was assigned to the Aegean University in Greece. In fact, this madrasah belonged to the Office of Waqfs, established by the Turks in Rhodes. The mosques in Rhodes have been closed on the ground of repair. Today, the Ibrahim Paşa Mosque is open for praying. It was notified that Süleymaniye Mosque would become a mosque.

Problem of the Waqfs (charitable Muslim foundations)

Today, immovable property and shops of the Waqf belonging to the Turks in Rhodes and Kos are subjected to property tax in the rate of 0,6%, which is the same as for commercial enterprises. Immovable property of waqfs foundations belonging to Christians is not subjected to the same tax. This indicates that there is a discriminatory application of taxes. On the other hand, the Greek government is forcing the Office of Waqfs to sell its fields and property by charging expenses constantly, and thus weakening the Office of Waqfs. Greek governments promote this practice by appointing unqualified persons realize this application by assigning the persons, who misappropriating the Waqf assets, to the Boards boards of the Waqfs.

Problems in respect to the Right to Religion

When all Turkish schools in the Islands were closed in 1972, the lessons of Turkish language and religion were abolished. Today, Turks who go to Greek state schools, have no access to the right of religious education although they are exempted from Christian religious lessons.

FUEN and our member organisation the Rhodes, Kos and the Dodecanese Turks Culture and Solidarity Association request the Greek government to:

- re-open the existing Turkish schools in Rhodes and Kos,
- accept the identities of the Turks living in the Islands and stop putting the pressure on organisations working towards preserving these identities,

[5] Kaymakçı,M.,Özgün,C.,2015. Recent History of Turks in Rhodes and Kos. İzmir.

- protect the cultural heritage of the Ottoman Turks in the Islands, and take care of maintenance and repair

Subsequently, we call upon Greece, a member country of the European Union, to fulfill its human rights commitments as stated in international conventions such as 1923 Treaty of Lausanne,[6], the European Convention on Human Rights[7], the EU Lisbon Treaty[8] and its own Greek Constitution[9]. In this regard, we would like to mention that the protection and development of the cultural identities of the Turks in Rhodes and Kos is one of the important duties of Greece.

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[6] In the article 45 of the 1923 Treaty of Lausanne about the rights of the non-Muslim minority in Turkey, it states that: "The rights conferred by the provisions of the present Section on the non-Moslem minorities of Turkey will be similarly conferred by Greece on the Moslem minority in her territory."

[7] Article 9, 10, 14 of the European Convention on Human Rights, Protocol 1, Article 1, 2 and Protocol 4.

[8] Lisbon Treaty: Article 10 TEU, Article 19 TFEU, Charter of Fundamental Rights.

[9] Articles 1, 2, 3, 5, 5a ..... 28 and 48, 110 of the Greek Constitution.

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Human rights situations that require the Council's attention

Written statement* submitted by the Organization for Defending Victims of Violence, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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Please recycle

Some Recommendations to the Special Rapporteur of the Situation of Human Rights in the Islamic Republic of Iran

The Organization for Defending Victims of Violence (ODVV) has been working in the field of human rights for years. ODVV has always been trying to initiate a dialogue between the government and Human Right Council along with other persistent attempts to promote human rights within the country through negotiations with the government. As a human rights NGO, based in Iran, ODVV is quite familiar with our country's human right issues. Our organization which is actively playing its effective role both inside Iran and in the Human Rights Council, would like to offer a number of recommendations to the Special Rapporteur of the Situation of Human Rights in the Islamic Republic of Iran:

1. Today is the deadline of NGO Written Statements for HRC31 and the report of the special rapporteur is not made available to the public on UN website yet. Considering the limited chances of NGOs to take the floor during the Interactive Dialogue with the Special Rapporteur, ODVV asks Dr. Shaheed to provide the Iranian NGOs with the opportunity to have access to his report before the Written Statements Registration deadline, so that they can comment on the report.
2. The human right situation of countries need to be assessed in a non-political manner, this is while different factors have led to the politicization of human rights issues in Iran, adding to the complexity of the situation. ODVV would like to ask the Special Rapporteur to make attempts to depoliticize the whole process. As an example, the Special Rapporteur might call for papers and start a professional dialogue with Iran universities and religious schools on human rights issues so as to discuss the controversies risen between the government and international human right mechanisms and seek effective solutions to the existing problems.
3. Professional reports that assess human right situations in countries need to be unbiased, impartial and based on the realities of the country. Some sections of the reports of the Special Rapporteur of Human Rights Situation in the Islamic Republic of Iran are designed based on Interviews with or allegations made by individuals which might not be necessarily true. The Organization for Defending Victims of Violence (ODVV) asks the Special Rapporteur to try to refer to more reliable resources to gather the related information.
4. As stated earlier, impartiality is one of the necessities of professional reports on human right situations. In recent years, Iran government has provided much detailed descriptions of the human rights cases pointed out in Special Rapporteur's reports. Unfortunately, the answers are reflected in the final version of Mr. Shaheesd's report in a really brief way, which has two negative consequences: a) The final human rights report of the situation of human rights in Iran does not provide the readers with the viewpoints of both sides – the government and the ones who report human rights violations – that is, the final report suffers from degrees of biasness; and b) Briefly citing the views expressed by the government will discourage our country officials policy of getting involved in providing answers to the report, hence undermining ODVV's persistent longstanding attempts to encourage the government policies of cooperation with the Special Rapporteur.
5. ODVV has always been trying to promote the situation of human rights in Iran and considering the important role of judges within the Iranian legal system, our organization has sent a proposal to the Special Rapporteur on the Situation of Human Rights in the Islamic Republic of Iran, a project to run "Education Courses for Iranian Judges, Lawyers, Judicial and Law Enforcement Experts." The objectives of the project was to train 100 Iranian lawyers, judges, judicial and law enforcement experts on human rights principles, the functions of the Human Rights Council, UPR mechanism as well as different aspects of human rights in national and international levels. The participants would learn more about human rights instruments, major concepts. However, despite the communications of ODVV representatives with the office of the Special Rapporteur, to date there has been no replies on the proposal.
6. Considering the Special Rapporteur's lack of access to the country and the fact that NGOs based in Iran are dealing with human rights issues on the ground, they can be easily contacted to provide answers to human rights questions of Dr. Shaheed's office. ODVV has provided, professional detailed answers to the few questions sent to the NGO office in recent years. As stated in face to face meetings of NGOs with the Special Rapporteur, all NGOs can provide answers to Dr. Shaheed's questions.

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Human rights bodies and mechanisms

Written statement* submitted by The European Centre for Law and Justice (Centre Européen pour le droit, la Justice et les droits de l'homme), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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Please recycle

ENDING THE DISTRUBING VIOLATION OF HUMAN RIGHTS THAT IS *BACHA BAZI*

1. INTRODUCTION

Bacha bazi is a deeply disturbing practice and a gross violation of human rights that victimizes vulnerable children. The European Centre for Law and Justice urges the United Nations to take action and condemn policies that ignore the plight of the abused boys of Afghanistan and prohibit intervention.

The purpose of this submission is to draw attention to the practice of *bacha bazi*, and to urge the United Nations and the International Community to condemn any non-intervention policies that allow Afghani children to be trafficked and abused with impunity.

2. WHAT IS *BACHA BAZI*?

Bacha bazi means 'boy play'[1] and is a prominent customary practice of the Pashtun culture in Afghanistan and parts of Pakistan,[2] which involves the exploitation of young boys for sexual entertainment and pleasure.[3] Boys between the ages of nine[4] and eighteen are sold or given to men, such as warlords, businessmen, and former military commanders.[5] These men, who become the boys' 'masters',[6] force the young boys to dance seductively and perform sexual favors.[7] If the boy refuses to perform such requests, his master will beat him.[8] But even if the boy does perform the requests of his master, he is still often injured physically, including such injuries as 'internal/anal hemorrhaging, rectal prolapse, protrusion of intestines, displaced pelvis bones, throat injuries, heavy internal bleeding, rectal wall tearing,' and non-sexual related physical injuries such as 'broken limbs, broken fingers, fractures, broken teeth, savage beatings, strangulation, asphyxiation, and in some cases, death.'[9] Boys also suffer emotionally, including rape trauma and social isolation.[10]

Thirteen million men from the Pashtun tribe make up approximately fifty percent of the population of Afghanistan, and approximately forty percent of those males engage in the practice of *bacha bazi*.[11] According to one study, one out of every ten Afghan boys has been the victim of human trafficking.[12] Yet, in spite of the prevalence of *bacha bazi* and its

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[1]Zadzi, *Boys in Afghanistan Sold Into Prostitution, Sexual Slavery*, DIGITAL JOURNAL (20 Nov. 2007), http://www.digitaljournal.com/article/246409.

[2]Afg. Indep. Human Rights Comm'n Rep. on Causes and Consequences of Bachabazi in Afghanistan, 24 Doc. 1393 (6 June 2002), http://www.refworld.org/docid/5694c3db4.html, [hereinafter AIHRC Report].

[3]*Id.*

[4]Ernesto Londono, *Afghanistan Sees Rise in "Dancing Boys" Exploitation*, WASHINGTON POST (4 Apr. 2012), https://www.washingtonpost.com/world/asia_pacific/afganistans-dancing-boys-are-invisible-victims/2013/12/30/bb8e8a5a-7c2b-11e1-8f65-4cbb23028e62_story.html. *See also* Christian Stephen, *Hand Covers Bruise: The Destruction of Afghanistan's Boys*, RYOT.ORG, http://www.ryot.org/bacha-bazi-afghanistan-pashtun-child-abuse-christian-stephen/912777 (last visited 5 Feb. 2016).

[5]Zadzi, *supra* note 1.

[6]Christian Stephen, *supra* note 4.

[7]AIGHRC Report, *supra* note 2.

[8]Zadzi, *supra* note 1.

[9]Christian Stephen, *supra* note 4.

[10]Human Terrain Team AF-6, *Pashtun Sexuality*, https://info.publicintelligence.net/HTT-PashtunSexuality.pdf (last visited 10 Feb. 2016).

[11]Christian Stephen, *supra* note 4.

[12]Hagar Int'l, *Forgotten No More: Male Child Trafficking in Afghanistan* (Oct. 2013), http://www.hagarinternational.org/international/files/20140403-Forgotten-No-More1.pdf, [hereinafter "Forgotten No More Report"]. (This number includes both victims of sexual exploitation and military exploitation).

victimization of Afghani children, the International Community has mostly ignored this horrific practice and allowed it to flourish.

2. THE CONSEQUENCES OF IGRNORING *BACHA BAZI*

Bacha bazi has political and international ramifications because of who participates in the practice. The Pashtun warlords, who are the main opponents of the Taliban in Afghanistan, are the primary perpetrators of this atrocity.[13] This makes the general population more likely to sympathize with the Taliban, because the Taliban is less likely to take their teenage boys and abuse them sexually.[14] Because the international community is trying to support the Pashtun's efforts and not alienate them, they are either overlooking the plight of the boys who are being used in this way, or are unaware.[15]

Such non-intervention policies, which are intended to respect the cultural practices of the Afghani people and foster good will, however, merely alienate the Afghani people who see the International Community providing support and protection to the men who are abusing Afghani children.

3. WHAT IS BEING DONE TO END *BACHA BAZI*?

Although the government of Afghanistan officially condemns *bacha bazi*[16] and even signed an agreement with the United Nations in February of 2011, which included in its provisions a commitment to end the *bacha bazi*,[17] the practice continues to thrive. Afghanistan has signed and is a party to treaties, including the Convention on the Rights of the Child and Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography,[18] as such, it is time for the United Nations and the International community to hold Afghanistan responsible for its failed efforts to end this practice. Instead, the issue of *bacha* bazi has been downplayed or ignored—even by the legal community.[19]

The United Nations published a comprehensive manual designed to help the Afghanistan government establish a legal framework for eliminating this form of human trafficking.[20] What is being done to implement that framework? It is important that the United Nations, the International Community, and the Afghani government support and work with human rights organizations that are making efforts to stem the tide of *bacha bazi*. The Afghanistan Independent Human Rights Commission (AIHRC)—described as "one of the few organizations in [Afghanistan] working to end 'bacha bazi'"[21]—has pushed for amendments to the country's criminal laws that would explicitly prevent the practice, since

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[13]Roshni Kapur, *Bacha Bazi: The Tragedy of Afghanistan's Dancing Boys*, THE DIPLOMAT (23 Aug. 2014), http://thediplomat.com/2014/08/bacha-bazi-the-tragedy-of-afghanistans-dancing-boys/?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+the-diplomat+%28The+Diplomat+RSS%29. *See also* Musa Khan Jalalzai, *Male Prostitution in Afghanistan*, DAILY OUTLOOK OF AFGHANISTAN (9 July 2011), http://outlookafghanistan.net/topics.php?post_id=1166.

[14]Chris Mondloch, *Bacha Bazi: An Afghan Tragedy*, FOREIGN POLICY.COM (28 Oct. 2013), http://foreignpolicy.com/2013/10/28/bacha-bazi-an-afghan-tragedy/.

[15]Interview by Jamie Doran, with Radhika Coomaraswamy, Special Representative for Children and Armed Conflict, United Nations (Sept. 18, 2009).

[16]Samuel V. Jones, *Ending Bacha Bazi: Boy Sex Slavery and the Responsibility to Protect Doctrine*, 25 IND. INT'L & COMP. L. REV. 63, 70 (2015).

[17]*New UN-Afghan Pact Will Help Curb Recruitment, Sexual Abuse of Children*, UN NEWS CENTRE (3 Feb. 2011), http://www.un.org/apps/news/story.asp?NewsID=37461#.VruHA_krKUk.

[18]*Id.* at 71 (2015).

[19]Samuel V. Jones, *ENDING BACHA BAZI: BOY SEX SLAVERY AND THE RESPONSIBILITY TO PROTECT DOCTRINE*, 25 Ind. Int'l & Comp. L. Rev. 63, 65 n.10 (2015) (noting that a Westlaw search for "bacha baza," returned only five law review articles mentioning the practice).

[20]*Id.* at 70.

[21]Atia Abawi, *Ignored by Society, Afghan Dancing Boys Suffer Centuries-old Tradition*, CNN (Oct. 27, 2009), http://www.cnn.com/2009/WORLD/asiapcf/10/26/ctw.afghanistan.sex.trade/index.html?iref=24hours.

current laws proscribing rape and pederasty do not cover *bacha bazi*.[22] Those amendments need to be made so that perpetrators of *bachi bazi* no longer exploit Afghani boys with impunity.

Ultimately, Afghani officials, journalists, and citizens are reluctant to address *bacha bazi*[23] and international efforts have fallen short of eliminating the practice. As long as awareness remains the same, this child sex slavery will continue.[24]

4. CONCLUSION

Therefore, the ECLJ urges the Special Rapporteur on the sale of children, child prostitution and child pornography, the Special Rapporteur on contemporary forms of slavery and the Special Rapporteur on trafficking in persons, especially women and children, in accordance with their mandates, to address the issue of *Bacha Bazi*, which constitutes a gross violation of human dignity and internationally recognized human rights of boys.

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[22]Stephanie Ng, *The Last Taboo: Male Rape and the Effectiveness of Existing Legislation in Afghanistan, Great Britain, and the United States*, 23 TUL. J. INT'L & COMP. L. 227, 234 (2014); *AIHRC Efforts to Legally Stop Bacha Bazi*, TOLO NEWS (20 Aug. 2014), http://www.tolonews.com/en/afghanistan/16045-aihrc-efforts-to-legally-stop-bacha-bazi.

[23]Zadzi, *Boys in Afghanistan Sold Into Prostitution, Sexual Slavery*, DIGITAL JOURNAL (Nov. 20, 2007), http://www.digitaljournal.com/article/246409; *See* Atia Abawi, *Ignored by Society, Afghan Dancing Boys Suffer Centuries-old Tradition*, CNN (27 Oct. 2009) ("The abuse stays on the backburner of issues in Afghanistan. People are aware of it, but they don't really talk about it . . . . It continues because of the culture of impunity and lack of legal provision against this practice.") ttp://www.cnn.com/2009/WORLD/asiapcf/10/26/ctw.afghanistan.sex.trade/index.html?iref=24hours; Kelley B. Vlahos, *The Rape of the Afghan Boys*, ANTIWAR (13 Apr. 2010), http://original.antiwar.com/vlahos/2010/04/12/a-deal-with-the-devil/ (Rachel Reid of Human Rights Watch said, "It's gotten some limited attention. There's been some Afghan investigative journalists who have tackled it, though in areas where the perpetrators area also local 'commanders' whether official or unofficial, there will always be fear of reprisals.").

[24]*Afghanistan: An In-Depth Look at the Practice of "Bacha Bazi" (Dancing Boys)*, CHILD RIGHTS INTERNATIONAL NETWORK (18 Sept. 2013), https://www.crin.org/en/library/news-archive/afghanistan-depth-look-practice-bacha-bazi-dancing-boys (an anonymous analyst said, "If as much attention went into bacha bazi [as women's rights] I am sure you would see a difference, but no one speaks about it.").

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Violation of humanitarian law in Yemen war; the need for the international community in support of defenseless people of Yemen

The military onslaught of Arabic countries coalition, headed by Saudi Arabia, to Yemen started nearly one year still continues. Over the last months, violating the international conventions, this coalition not only ignored the territorial sovereignty of Yemen, but also since the beginning of attacks to Yemen, the people, infrastructures, residential areas, and civilian facilities of this country were have been the targets of heavy aerial bombardment and weapons of mass destruction such as phosphorus and cluster bombs, killing and injuring thousands people from children and women to patients and the elderly in Yemen, and as a result, the Yemeni people are facing with many challenges.
According to the UN Office for the Coordination of Humanitarian Affairs on human needs, in 2016, more than 21 million people in Yemen (82% of citizens) need humanitarian assistance because of unfortunate situation caused by invasion to this country. The report also warned that the health system in this country is collapsing. On the other hand, about 14 million people in this country need medical services while 600 health care centers have been forced to stop their services because of the war.

United Nation Children's Fund (UNICEF) has announced that over the past nine months, more than 700 Yemeni children have lost their lives. According to the report, 1108 children were injured in the war. According to the report, the year 2015 was the worst year for Yemeni children. Also, according to the UN Office for the Coordination of Humanitarian Affairs on human needs, 1 million and 800 thousand Yemeni children have denied their right to education because of the war, and 1000 schools in this country can no longer welcome the students and 174 schools are completely destroyed.

Although based on the paragraph 4 of Article 38 of the Convention on the Rights of Child "the states parties to the Convention, in compliance with obligations under the international humanitarian law to protect the civilians in the armed conflict will take all possible measures to ensure protection and care of children who are vulnerable in the armed conflict", unfortunately, the silence of the UN Security Council and other international communities against the acts of Saudi Arabia in the territory of Yemenis an issue that adds to the pain and suffering of the Yemeni people.

The silence of the international community encouraged Saudi Arabia and its allies to take more steps against Yemen, since February 2015, and the death toll, especially death of women and children, increases day by day.
The impact of the Saudi military attack reached to a dangerous stage and deteriorated the human condition more than before such that even the international aid organizations and countries interested in providing humanitarian assistance are not able to provide assistance and relief. The reports also indicate that the conflicts significantly damaged the health care centers and education system and the health and educational infrastructures are basically damaged, and unfortunately, violence and displacement has created a bad situation for children. Now, Yemeni people, especially children and women, are facing severe food shortage, hunger and poverty. At the moment, more than 250 thousands Yemeni children are at risk of dying from hunger and food shortage while 6 percent of them are suffering from malnutrition.
Yemeni children now need urgent help. This aid could be made if all involved parties, as are required according to the international humanitarian laws, allow people in conflict areas have full access to services. In these areas, due to lack of hospital services and shortage of medicines, the civilians lose their lives and the preventable diseases also threaten the children's lives.
Condemning such inhumane attacks, the Iranian Elite Research Center (IREC) asks peacekeeping international organizations to take all their efforts to end the conflicts and protect the health and safety of all civilians, especially children, and make a situation for aid workers to provide medical care, food, and support to sufferers and victims.

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Joint written statement* submitted by Caritas Internationalis (International Confederation of Catholic Charities), New Humanity, non-governmental organizations in general consultative status, Associazione Comunita Papa Giovanni XXIII, Alliance Defending Freedom, Association Points-Coeur, Company of the Daughters of Charity of St. Vincent de Paul, Congregation of Our Lady of Charity of the Good Shepherd, International Association of Charities, International Catholic Child Bureau, International Volunteer Organization for Women Education Development, Istituto Internazionale Maria Ausiliatrice delle Salesiane di Don Bosco, Mouvement International d'Apostolate des Milieux Sociaux Independants, Teresian Association, World Union of Catholic Women's Organizations, non-governmental organizations in special consultative status

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Protection of the family

APG23 and the co-signing NGOs take note of the Report of the Office of the UN High Commissioner for Human Rights[1] entitled "Protection of the family: contribution of the family to an adequate standard of living for its members, particularly through its role in poverty eradication and achieving sustainable development".

The report cites several internationally agreed documents that reaffirm the central and vital role of the family in society and acknowledges the key contribution of the family in fostering social development, its strength in assuring social cohesion and integration, and its primary responsibility for the nurturing, guidance, and protection of children.

Art. 16.3 of the UDHR states: "The family is the natural and fundamental group unit of society and is entitled to protection by society and the State". Other international Treaties and Conventions, such as the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the Convention on Protection of the Rights of All Migrant Workers and Member of their Families, the Convention on the Rights of Persons with Disabilities contain clear provision for protection of the family. At regional level, the American Convention on Human Rights contains similar provisions.

In its preamble, the Convention on the Rights of the Child (CRC) states very clearly that "the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community". Moreover, it stipulates, "The child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding". In article 20, paragraph 1, the CRC also stipulates that a child who is temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State. Paragraph 2 of the above-mentioned article also declares "States Parties shall in accordance with their national laws ensure alternative care for such a child".

Indeed, the environment in which a child grows is the determining factor for his or her development and future. Children are the future generation. They have the right to be raised and grow to adulthood surrounded by security and love. This will enable them, in turn, to transmit the values of their community/society. The responsibility to establish/maintain such an environment lays with the basic component of each society, the smallest community, a group of people, namely, the family.
The family is also the first shield against any form of violation of children's rights and should therefore be assisted. Children without parental care are more exposed to violence, discrimination, sexual exploitation, abuses, traffic in human organs, and any others forms of mistreatment.

In this regard, the co-signing NGOs are pleased to note, in the second draft of the Global Plan of Action on violence of the World Health Organisation presented at its 138th Executive Board[2], an acknowledgement that "families with safe and nurturing relationships between parents, caregivers and children are a protective environment for children". The same global plan calls for "support and strengthening" of those families in which "maltreatment of children" occurs. States cannot substitute for the love and care that is provided by families, but States can and should provide the economic, social, and psychological support needed by vulnerable and marginalized families who experience abandonment or, in the words of Pope Francis, are "thrown away" by the rest of society. With additional help from government and local communities, even these families can succeed in re-establishing harmony and stability among their members.
States have to guarantee and protect the right of a child to have a family, and protect those persons who care for children by supporting the efforts of the family in providing adequate living conditions, education, health facilities, etc.

[1] A/HRC/31/37
[2] EB138/9, paragraph 19- 138th session, January 2016

At national level, many States have endorsed within their national laws and constitutions, elements and principles as to ensure the protection of the family and recognize its central role within society. As an example, the Constitution of Italy states under Article 29 that: *"The Republic recognises the rights of the family as a natural society based on marriage"*. In this regard, the term "*recognises*" is fundamental: the State does not allow nor authorise, but recognises what already exists. The reference to a "*natural society*" implies the meta-juridical "entity" of the family intended as a marital bond between a man and a woman, husband and wife, two persons, who, in their complementarity and mutual love are open to the procreation of children and to upbringing and education of their children.

Thus, States have the obligation to provide the widest possible support and protection for all families and allow them to fully assume their role in the community and provide a conducive environment for the growth and well-being of their members.

Pope Francis recently commented: "The family remains always the cell of society, and the primary place of education. It is the community of love and of life in which every person learns to relate to others and with the world. And, thanks to the bases acquired in the family, he is able to project himself in society, to frequent positively other formative environments … Thus, in this integration between the bases assimilated in the family and "outside" experiences, we learn to find our way in the world."[3]

Bearing in mind that we always have "to seek for what unites, instead of what divides[4]" in order to have a constructive dialogue at the United Nations, we should leave behind the arguments on the definition of the family that may be divisive according to different cultural, ideological, religious interpretations and maintain the universal agreed language of human rights law that unanimously reaffirms the key role played by the family in the society.

In fact, the family is not only the fundamental group unit of society; it is the fundamental agent for sustainable, social, economic and cultural development. As the UN Secretary General said in a recent report[5]: "As basic and essential building blocks of societies, families have a crucial role in social development. They bear the primary responsibility for the education and socialization of children as well as instilling values of citizenship and belonging in the society. Families provide material and non-material care and support to its members, from children to older persons or those suffering from illness, sheltering them from hardship to the maximum possible extent."

The co-signing NGOs, present at grass-root level with the most vulnerable people and in situations where extreme poverty and emergencies have the greatest impact, can attest to the words of the Secretary General. In fact, across the world and in all cultures, the family has a very significant role in the care of children, elderly and sick persons. A clear example of this is the role that the African extended family has played, and continues to play, as a copying mechanism in countries most affected by epidemics such HIV and AIDS, Ebola etc.

In 2013, the Secretary General emphasized in his report for the International Year of the Family[6] that inclusion of families to the 2030 agenda would constitute a step forward in the direction of empowerment and reduction of inequality and contribute to the achievement of sustainable development goals. Regrettably, the critical role of the family in promoting and achieving sustainable development has been largely overlooked in the formulation of the 2030 Agenda and only few of the targets refer directly[7] or indirectly to the family.

In this regard, we call upon States not to overlook the fundamental role of the family in society and its contribution to development in formulating their domestic development plans for the implementation of SDGs.

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[3] Pope Francis, Address to Italian Catholic Adult Scouts on Movement's 60th Anniversary, Vatican City, 10 November 2014

[4] Saint Pope John XXIII, Encyclical Pacem in Terris, 11 April 1963

[5] United Nations, 'Follow-up to the tenth anniversary of the International Year of the Family and beyond', Report of the Secre- tary-General, 29 November 2010 (A/66/62).

[6] A/69/61-E/2014/4

[7] Target 5.4

Furthermore, since economic, social and quality of life conditions have worsened for many families around the world, States and international organizations must commit to enact effective policies and measures to provide the necessary comprehensive support for the family and its members. Hence, we call upon States to implement all the recommendations of the resolution A/HRC/29/22, and in particular, the following:

- Creating family-friendly policies to support the family, and assessing such policies and programmes for their impact on family well-being;
- Designing, implementing and promoting family-sensitive policies in the field of housing, work, health, social security and education in order to create an environment supportive of the family, including affordable, accessible and quality care services for children and other dependants, parental and other leave schemes, campaigns to sensitize public opinion and other relevant actors on equal sharing of employment and family responsibilities between women and men;
- Addressing the causes and mitigating the consequences of family disintegration.
- Facilitating, as appropriate, the integration of families into society and their reunification, preservation and protection, including by providing adequate shelter, access to basic services and a sustainable livelihood.

United Nations A/HRC/31/NGO/111

General Assembly

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Human Rights Council
Thirty-first session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Iranian Elite Research Center, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.16-02543(E)

Please recycle

The need for checking Mena disaster by the international organizations of human rights

The tragic disaster happened in Mena, Mecca, occurred due to incompetence of the Saudi Arabia government in managing Hajj is still at the center of public attention. Mena disaster occurred on September 24, 2015 in Mena region, Mecca, Saudi Arabia. The pilgrims throng caused the death of at least 2236 people. The exact toll of victims has not been officially announced. Based on the total death toll reported by different countries, the current number of victims is 7700 people. The Saudi Government, as the organizer of spiritual rituals of Hajj, is blamed in this tragedy and should be accountable in this regard; this matter has not yet been checked and hence, it requires the involvement of international organizations of human rights.

According to the International Law, and specifically the Rights of Foreigners and the International Liability Law, the Saudi government is the main responsible for violation of the fundamental rights of victims and in Mena disaster since under the customary international law, any internationally wrongful act of a country or breach of an international obligation is incurred the international responsibility, which is studying in the following.

Concerning the existing rules on legal obligations reveals violation authentication or lack of violation authentication by the Saudi government. In accordance with the customary and conventional international law, the countries are responsible for the safety of nationals of sending countries (the countries that sends its nationals to the host country under different titles, including tourist, pilgrim, etc.). According to Article 5 of the Convention on Consular Relations 1963, in the part of "Console" and in paragraph "a" of consular tasks, "protecting the interests of sending country and its nationals- both natural and legal persons- in the territory of the host government" is emphasized.

In fact, the most important right for foreigners in a country is having absolute security of life and conditional security of property and in case of inability of the host government, the international community should be asked for help to provide this security. Moreover, according to Conventions 1961 and 1963, the governments are obliged to protect the foreigners in their territories, and they can enjoy their basic rights. Besides, there are some bilateral agreements between Iran and Saudi Arabia, including 1308 Friendship Treaty, and upon Article 4 of this treaty, the Saudi government is obliged to protect the Iranian pilgrims' security of life.

According to eyewitnesses' accounts and interviews with many who attended in Hajj rituals: "the police closed all inbound and outbound routes to the place where the pilgrims perform stoning of the devil and only one route was left open." (The interview of a Libyan pilgrim with Daily Mail), "the police at the scene were inexperienced as they even did not know the ways, roads, and the places around the area" (the interview of an Egyptian pilgrim with Daily Mail), "Shiite pilgrims from Iran, Iraq, Afghanistan, and some other countries initially entered and then, the pilgrims from Africa came quickly. At the same time, the channel outlet door was closed by Saudi police on the pretext of passing a Saudi prince and the rest of the story" (the interview of an Iranian pilgrim with Mehr News Agency).

Also, the Saudi government did not allow the rescue forces by other countries to enter until 16:30, and such delay, in itself, caused many the death of many people and due to very limited facilities and large population, the Saudi government was not able to control the situation and bring relief to victims. In this context, the Saudi government certainly committed an international violation.

The Saudi government and officials negligence in protecting the interests of the foreigners in Hajj, "which was a responsibility for that country" and also "neglecting to report deaths in that area to the consular post" have provided the ground for international violation by this country and have confirmed the international responsibility of this country in protecting the foreigners.

Moreover, the right of health is among secondary human rights, which the Saudi government has refused it. It also has mentioned in many interviews that "some victims in this disaster died due to lack of drinking water and access to health care services". The Saudi government could have reached drinking water or any other drinks to pilgrims in any way (e.g. using helicopters) while providing public health.

In general and legally, the Saudi government is required to provide detailed reports from Mena disaster; a matter that the government has refused until now. The Saudi government entrusted the non-state organizations with the management of Hajj rituals and Jamarat (stoning of the devil). According to international right, if, under the law, performing some governmental duties is entrusted to non-state organizations, the wrongful act of non-state part will be attributed to the assigner government. Human rights obligations can contribute to legal pursuit of Mena disaster; in human rights obligations, the right to health and health care, the right to consular access, the right to prohibition of discrimination, and the right to life, among others, are considered as the most important parts. Based on positive obligations, where the Saudi government considered or must have considered the real danger to the lives of people, but it failed to adopt reasonable and appropriate measures by which it could have prevented the disaster, it has violated the principle of right to life.

Iranian Elite Research Center (IREC) asks the international and human rights organizations to be involved in this issue and pursue different dimensions of this disaster and hence, prevent the reoccurrence of such disasters.

United Nations A/HRC/31/NGO/112

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Human Rights Council
Thirty-first session
Agenda item 4
Human rights situations that require the Council's attention

Written statement* submitted by Human Rights Now, a non-governmental organization in special consultative status

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* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.16-02544(E)

Please recycle

Current Human Rights Situation in Myanmar

1. Introduction

Human Rights Now (HRN), a Tokyo-based international human rights NGO, welcomes the recent progress towards democracy and legal reforms in Myanmar and expects democratic transition will be peacefully advanced soon following the general election last November 2015.
However, we remain seriously concerned over the human rights situation in Myanmar given continuing human rights violations. These include discrimination against Rohingya and other minorities, human rights violations in conflict areas, continuing restrictions on media and free expression, land confiscations, and other issues highlighted by UPR recommendations. HRN calls on Myanmar to meet its international obligations by rectifying these human rights violations with appropriate and effective measures, and to follow recommendations from the UPR process. Also, it stresses the necessity to extend the mandate of the UN Special Rapporteur on the situation in Myanmar under Agenda Item 4.

2. Rohingya and other minority rights

The rights of minorities continue to be violated in Myanmar, most significantly the Rohingya population of northern Rakhine state.

Under four discriminatory laws passed in 2014 and 2015—The Religious Conversion Law, the Population Control Healthcare Law, the Buddhist Women's Special Marriage Law and the Monogamy Law—Rohingya and other Muslims need state permission to convert, marry, and have more than two children or face criminal sanction. These laws inhibit Muslims' social integration in the name of "protecting race and religion," and they violate numerous rights including the freedom of religion and association.[1]

The ability of Rohingya, along with other former Temporary Registration Card Holders, to have equal access to applying for citizenship through a non-discriminatory process continues to be restricted, including by the 1982 Citizenship Law which limits the granting of citizenship based on ethnicity or race.[2] In the 2015 census, persons self-identifying as "Rohingya" were not included, leaving them uncounted and their status precarious.[3] The non-citizenship status of Rohingya means they are not protected by important rights and subject to persecutions without recourse.

There are severe restrictions on Rohingya's freedom of movement in Rakhine state including curfews and a need for authorities' permission for meetings or travel between townships.[4] These restrictions on movement are in the context of widespread displacement of Rohingya following 2012 communal violence and 2015 flooding in Rakhine state, with about 140,000 living in displacement camps with squalid conditions and lack of access to health care, food, water, sanitation, education, and work, violating Rohingya's rights to all of these, and particularly negatively impacting Rohingya women.[5] The situation has precipitated a trafficking crisis as a reported 32,000 people (many Rohingya) were smuggled out of Myanmar in 2015 to flee persecution, often with the participation of corrupt local authorities.[6]

Myanmar authorities allow persecutions, violence, and hate speech against Rohingya to continue with impunity, perpetuating their discrimination.[7]

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[1] http://thediplomat.com/2015/08/the-truth-about-myanmars-new-discriminatory-laws/.
[2] http://www.nationalityforall.org/burma-myanmar.
[3] http://www.rfa.org/english/news/myanmar/census-03132014181344.html.
[4] http://www.rvisiontv.com/rohingya-students-denied-of-intra-township-travel-permissions/.
[5] http://www.aljazeera.com/indepth/features/2015/08/displaced-rohingya-rocked-devastating-floods-150826102826508.html.
[6] http://www.ucanews.com/news/small-scale-people-smuggling-reported-in-myanmar/74890.
[7] http://www.aljazeera.com/indepth/opinion/2014/01/patterns-impunity-deceit-myanm-201412415234772853 5.html.

3. Human rights violations in conflict zones

Human rights violations in Myanmar have been particularly concentrated in conflict areas. UNHCR estimates 587,000 internally displaced persons (IDPs) in Myanmar, and the Internal Displacement Monitoring Centre reports 662,400 IDPs due to conflict, primarily in Kachin, north Shan, and Rakhine states, to camps where living conditions are dire and access to health, education, and work is limited.[8]

There have been continuing reports of torture, ill treatment, and sexual violence by the Myanmar military in conflict zones in Kachin, northern Shan, and Rakhine states, with widespread impunity for these violations.[9] Criminal investigations are either not carried out or are flawed, and military courts are not transparent.[10] Persons making allegations against the military have also found themselves subject to criminal defamation charges.[11]
Regarding the recruitment of child soldiers, despite efforts to end the practice, it continues by the military, border forces, and non-state armed groups, and child soldiers which attempt to leave the military continue to be detained as "deserters."[12]

4. Violations of the freedoms of assembly and expression

While the Myanmar government has reformed some media laws since 2012, such as dissolving its censorship board, widespread restrictions on freedom of expression and assembly remain.[13]
The 2014 Law on the right to Peaceful Assembly and Peaceful Procession requires demonstrations to receive government approval or face criminal sanctions, and vague and broad language permits arrests and detentions for peaceful assemblies virtually at authorities' discretion, as was seen in the peaceful protests in Letpadaung and Michaungkan in late 2014 and early 2015.[14]
With regards to journalism, a report by the PEN American Center recently detailed continuing prosecutions, jail sentences, harassment, physical attacks, censorship, weak protection, restrictive laws, and intrusive bureaucracy for journalists and media workers.[15] Freedom House lists multiple laws under which acts of investigative journalism may be directly or indirectly (through overbroad or ambiguous language) criminalized, restricting the ability of a free press to hold the government accountable.[16]

5. Land rights and confiscations

Land confiscations and forced evictions by the military, police, and private companies in the name of "land development," as well as the displacements they cause without sufficient compensation or access to services, remain a serious problem in Myanmar, prompting protests among farmers, women, and ethnic groups.[17] Farmers are threatened with arrests to leave their land, and a variety of laws give the government significant discretion to confiscate land with

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[8] http://www.internal-displacement.org/south-and-south-east-asia/myanmar/figures-analysis; http://www.burmalink.org/background/thailand-burma-border/displaced-in-burma/.
[9] http://www.fortifyrights.org/downloads/Fortify%20Rights_Myanmar_9_June_2014.pdf; http://www.shanhumanrights.org/index.php/news-updates/205-shooting-killing-and-torture-of-civilians-by-burma-army-during-kokang-conflict.
[10] http://hrp.law.harvard.edu/wp-content/uploads/2014/11/2014.11.05-IHRC-Legal-Memorandum.pdf, pp. 74 ff.
[11] http://www.taipeitimes.com/News/editorials/archives/2015/11/06/2003631785.
[12] http://www.child-soldiers.org/news_reader.php?id=838.
[13] http://www.mediasupport.org/media-reform-myanmar-government-media-must-learn-change-ways/.
[14] https://www.article19.org/data/files/medialibrary/37666/14-08-01-LA-myanmar-assembly.pdf, pp.4-5.
[15] http://www.rfa.org/english/news/myanmar/myanmar-court-sentences-journalist-for-protesting-without-a-permit-12182015164619.html.
[16] https://freedomhouse.org/report/freedom-press/2015/myanmar (laws permitting press criminalization include the 2008 Constitution, 1950 Emergency Provisions Act, 2013 Telecommunications Law, 2004 Electronics Transactions Law, and 1923 Official Secrets Act).
[17] http://hrn.or.jp/eng/wp-content/uploads/2016/02/mudec2015report.pdf, pp. 6-7.

little to no protections for farmers land rights, particularly in a context where many farmers do not possess formal title, and customary and communal land use is unprotected.[18]

7. Recommendations

(1) Human Rights Now calls on the government of Myanmar to respect international human rights obligations and standards on the following issues.

In General:

- Amend the Constitution to remove provisions inconsistent with Myanmar's international obligations, such as those giving the military immunity from prosecution, vague language for exceptions to rights, and the limitation of universal rights only to citizens;
- Implement the recommendations received by the UPR Myanmar working group;[19]
- Ratify major human rights treaties such as ICCPR, ICESCR, CAT, ICERD, and ICCPED;
- Invite the OHCHR into a country office with full capacity;

On the issue of Rohingya and other minority rights:

- Resolve the citizenship status of former temporary registration card holders and remove discriminatory restrictions on their access to citizenship;
- Ensure The Religious Conversion, Population Control Healthcare, Buddhist Women's Special Marriage, and Monogamy Laws are consistent with Myanmar's international obligations by removing language discriminating treatment of Muslims;
- Enact measures to end hate speech against Muslims which encourages discriminatory legislation and incites communal violence;
- Respect Rohingya's and other minorities' right to self-identification in all administrative processes;
- Lift travel restrictions and other restrictions on the freedom of movement in Rakhine state;
- Ensure access to health, education, and other services for all displaced persons without discrimination;

On the issue of violations in conflict areas:

- Conduct prompt and impartial investigations of allegations of military abuses in conflict areas, and end prosecutions of persons bringing allegations;
- End child recruitment with recruitment procedures and independent oversight, and make recruitment of children into the military a criminal offense;

On the issue of restrictions on freedom of assembly and expression:

- Amend the Peaceful Assembly and Peaceful Assembly Law and related penal laws to permit peaceful protests without arrests or crackdowns;

On the issue of land takings:

- Ensure development and land-use projects respect land owners in line with international human rights standards; do not force their evictions; and ensure they are sufficiently compensated and secured with access to basic services, education, and work in their new locations following any land taking;
- Reform land laws to provide ownership rights for individuals or groups with customary or communal land possession;

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[18] http://www.burmalibrary.org/show.php?cat=3211 (reported laws include the Land Acquisition Act, the 2012 Farmland Law, and the Vacant, Fallow and Virgin Land Law, and the draft National Land Use Policy).

[19] A/HRC/31/13, http://www.upr-info.org/sites/default/files/document/session_23_-_november_2015/a_hrc_31_13.pdf, pp. 4 ff.

(2) HRN also requests the UN Human Rights Council to adopt the resolution to extend the mandate of the UN special rapporteur on the situation in Myanmar under agenda item 4 in order to support successful democratic transition and promote human rights.

United Nations A/HRC/31/NGO/113

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Agenda item 7
Human rights situation in Palestine and other occupied Arab territories

Written statement* submitted by Human Rights Now, a non-governmental organization in special consultative status

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GE.16-02545(E)

Please recycle

The International Community Must Respond Immediately to the Continuing Impunity and Humanitarian Crisis in Gaza

1. Introduction

Human Rights Now, a Tokyo-based international human rights NGO, continues to support the findings and recommendations of the United Nations Independent Commission of Inquiry on the 2014 Gaza Conflict (hereinafter "the Commission") in its 14 June 2015 report. The report documented indiscriminate attacks against Gazans during the 2014 conflict, killing over a thousand civilians. The conflict also created a humanitarian crisis in Gaza by destroying critical infrastructure, including schools, medical facilities, and over 17,000 houses.

Since the report's publication, the crisis has only worsened. Perpetrators of indiscriminate attacks on Gazans have not been prosecuted, even as Israeli forces continue disproportionate and indiscriminate attacks in Gaza, and destroyed facilities and houses have not been timely repaired due to a blockade of Gaza by Israel. The international community should take immediate action to end the humanitarian crisis and impunity for human rights violations in Gaza and ensure that such rights violations do not continue.

2. Continuing Impunity for Indiscriminate Attacks in Gaza and Continuing Attacks

The Commission reported that the Gaza conflict saw serious violations of international humanitarian and human rights violations caused by both parties, some of which may constitute war crimes.[1] It observed that the Israeli military (IDF) killed 1462 Palestinian civilians, including 299 women and 551 children, and its attacks on residential buildings, in populated areas, and on UNRWA schools sheltering citizens raised questions about whether the IDF violated laws of war.[2] The Commission concluded by admonishing that "[t]hose responsible for suspected violations of international law at all levels of the political and military establishments must be brought to justice."[3] In spite of this, Israel's military advocate general opened investigations for only ten incidents, a number of which closed without prosecutions, even for incidents with evidence cited by the Commission.[4] Israel also impeded prosecutions, for example by barring Gazans from testifying in court about illegal killings of their relatives on vague "security grounds."[5] In the end, only three soldiers were indicted on charges of looting.[6] The most serious allegations remain without prosecution.

Following the International Criminal Court's (ICC) acceptance of Palestine as a State Party eligible to declare *ad hoc* ICC jurisdiction, the ICC's Office of the Prosecutor began an examination on 16 January 2015 on whether to begin investigations for prosecutable crimes from the 2014 Gaza conflict. In June 2015, Israel argued to the prosecutor that it did not have authority to hear Palestinian complaints.[7] However, on 12 November 2015, the prosecutor announced that it was continuing its investigation "in order to establish whether there is a reasonable basis to believe that crimes within the jurisdiction of the Court have been or are being committed."[8] Israel has also impeded the work of the Human Rights Council's Special Procedures. On 4 January 2016, Makarim Wibisono, the Special Rapporteur on the situation of human rights in the Palestinian territories announced his resignation effective 31 March 2016 due to Israel's failure to grant him access to occupied Palestinian territories.[9]

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[1] A/HRC/29/CRP.4, para. 668.
[2] Id., paras. 574, 671, 446.
[3] Id., para. 664.
[4] https://www.hrw.org/world-report/2016/country-chapters/israel/palestine; http://www.timesofisrael.com/soldiers-indicted-for-looting-during-gaza-war/.
[5] Id.
[6] Id.
[7] http://www.haaretz.com/israel-news/.premium-1.665172.
[8] ICC Office of the Prosecutor, *Report on Preliminary Examination Activities* (2015), para. 76.
[9] http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16922

As these accountability mechanisms have failed, stalled, or been disrupted, Israel has continued disproportionate bombings and military incursions into Gaza. Israel conducted more than 50 military incursions in 2015 by November 23, which have continued into 2016.[10] Israel continues to use live fire against demonstrators in or near the Israel border and fishermen fishing beyond six miles from the Gazan coast. Since the 2014 conflict ended, over 20 Gazans have been killed and more than 100 injured by border-fire and air strikes.[11]

3. Continuing Delays in Reconstruction and Development of Gaza

The 2014 Gaza conflict destroyed or significantly damaged over 17,000 houses, leaving nearly 100,000 homeless or displaced.[12] Israel has also maintained a blockade of Gaza since 2006, restricting incoming goods to less than half pre-closure levels, and Egypt on goods since October 2014. Both restrict building materials necessary for reconstruction.[13] From the August 2014 ceasefire until September 2015, only one million tons of construction material entered Gaza, only 9% of the amount necessary for reconstruction.[14] Shelter Cluster Palestine estimated reconstruction from the 2014 conflict would take 17 years at current rates of material entry.[15] Gazan export goods are also highly restricted, which has contributed to Gaza's economic decay.[16]

These border restrictions have aggravated Gaza's humanitarian crisis. The NGO Gisha reported that more than 70% of Gazans rely on humanitarian assistance and 57% suffer from food insecurity, and the World Bank reported 40% unemployment in Gaza and nearly 60% unemployment among young people.[17] Almost 200 schools have been forced to provide double-shifts to cope with facility deficiencies.[18]

In June 2015, a decision was made with the reconstruction agency UNRWA to assist reconstruction, and import restrictions on building materials were slightly eased, but this remains insufficient. On 22 October 2015, Gaza made news as the first refugee house was rebuilt, but more than 9,000 destroyed refugee houses remain and more than 13,000 Gazan refugees continue to be displaced.[19] The problem was summed up by UNRWA spokesperson Christopher Gunness, "The fact that just one totally destroyed house has been rebuilt in the 13 months since the Gaza conflict ended is a sad commentary in and of itself."[20] He cited a severe lack of funds and a need for "complete freedom of access" as the limiting factors for reconstruction work.[21] While international donors pledged $5.4bn at the Cairo conference for Gaza, by September 2015 only 35% of pledges had been disbursed, and of that only 13% represented new pledges for reconstruction.[22]

The border restrictions also extend to a 300m zone Israel has declared along Gaza's northern and eastern borders, amounting to 17% of Gaza's entire territory, which Israel enforces with live fire.[23] Israel has also resorted to spraying toxic herbicides to destroy Palestinian crops in this zone, which in practice extends to more than 500m from the border, crippling farmers' ability to make a living.[24] In December 2015, OHCHR reported on punitive house demolitions by Israeli forces, which the Special Rapporteur on the right to adequate housing, Leilani Farha, called "a form of collective

[10] HRW, *supra*, n. 4; Times of Israel, "Israeli fighter jets strike Gaza targets following rocket fire," 2 Jan 2016.
[11] Id.
[12] http://www.ochaopt.org/documents/press_release_7-7-2015.pdf
[13] http://features.gisha.org/ten-years-later.
[14] Id.
[15] http://shelterpalestine.org/Upload/Doc/741ec903-0c96-47fa-93ee-e320417e7dc4.pdf
[16] Gisha, *supra*, n. 13.
[17] Id.
[18] http://www.unrwa.org/newsroom/emergency-reports/gaza-situation-report-109
[19] http://www.aljazeera.com/news/2015/10/gaza-home-rebuilt-2014-israeli-war-151022143935336.html
[20] Id.
[21] Id. ("We need money, but we also need complete freedom of access and we need it immediately.")
[22] http://www.worldbank.org/en/programs/rebuilding-gaza-donor-pledges;
http://www.haaretz.com/st/c/prod/eng/2015/year-to-gaza-war/gaza-aid/
[23] http://gisha.org/en-blog/2011/11/14/physical-control-of-the-gaza-strip/
[24] http://www.aljazeera.com/news/2016/01/israel-spraying-toxins-palestinian-crops-gaza-160114063046813.html.

punishment."[25] Continued bombings of infrastructure facilities, such as Israel's bombing in January 2016 of Gaza's largest agricultural research station, also hamper Gaza's ability to rebuild its economy.[26]

4. Recommendations

(1) HRN calls upon the government of Israel to respect and ensure compliance with international human rights and humanitarian law, especially with regard to:
    1. Cease all violations of international humanitarian and human rights law in occupied Palestinian territory;
    2. Immediately and unconditionally lift the blockade against Gaza to facilitate the reconstruction of destroyed buildings and infrastructure;
    3. Cooperate with the ICC's examination and any future criminal investigations, requests by the Special Rapporteur on the situation of human rights in the Palestinian territories for access to Palestinian territory, and all other efforts to achieve justice and accountability over all acts violating international law in the occupied Palestinian territory, including the violations committed during recent Gaza conflict.
(2) HRN calls upon the State of Palestine:
    1. To make an effort to investigate alleged violations of human rights and humanitarian law against Israel civilians during the recent Gaza conflict.
(3) HRN calls upon the international community:
    1. To use its influence to promote compliance with human rights and humanitarian law obligations in the occupied Palestinian territory and Israel;
    2. To support efforts for justice and accountability with regard to the human rights violations in the Palestinian occupied territory;
    3. Increase its efforts to support the reconstruction of Gaza. In particular, it urges donors to fully provide the financial means they pledged at the Cairo Conference.
(4) HRN calls upon the ICC prosecutor to accelerate its preliminary examination on Gaza and to immediately start criminal investigations.
(5) HRN calls upon the UN Human Rights Council to set up effective mechanisms to ensure accountability over the alleged violations as well as the implementation of all UN recommendations on the State of Israel in relation to the human rights situation of people in the occupied Palestine territory.

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[25] http://www.ohchr.org/EN/NewsEvents/Pages/PunitivedemolitionsinOPT.aspx
[26] Aldabbour, *supra*, n. 24.

United Nations A/HRC/31/NGO/114

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Human Rights Council
Thirty-first session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Arab NGO Network for Development, non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.16-02546(E)

Please recycle

The right of Access to information in Bahrain

The right of access to information is stipulated in the Universal Declaration of Human Rights and by the Article 19 of the International Convent on Civil and Political Rights (ICCPR). The latter states that '*everyone has the right to hold opinions without interference. And that everyone has the right to freedom of expression. This right shall include freedom to seek various forms of information and ideas, receive and impart to others regardless of frontiers, either in writing or in print, in the form of art, or any other media of his choice.*'

Right to information is key for enhancing accountability, ensuring transparency and combatting corruption. Indeed, Article 10 of the UN Convention Against Corruption states that '*each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes, where appropriate.*'

Bahrain as a state party to both ICCPR and UNCAC, presented a draft law on the right of access to information, yet the process stalled at the House of Representatives and Alshura, upon the Government dictation, on the pretext of the need for a prior law on safeguarding state secrets, including documents that could be covered by the law on freedom of access to information. The lack of a legislative framework coupled with restrictions implemented on the freedom of expression and opinion and limitations on media (visual, audio or written) and through social media channels (Facebook and twitter) worsen the situation on the ground.

Bahrain Transparency Society (BTS), a member of the Arab NGO Network for Development and BHRO undertook national advocacy during the draft law process to raise public awareness on the importance of such law and organized several seminars and workshops on the issue.[1] In this context ANND and BHRO recommend to the Government of Bahrain to:

1- Fulfill its commitments under the International human rights treaties particularly in relation to Article 19 of ICCPR and Article 10 of UNCAC and ensure full enjoyment of the right of access to information.
2- Fulfill its commitments towards protect, promote and respect of freedom of opinion, expression and faith
3- Enhance transparency and accountability implementing anti-corruption mechanisms and ensuring full enjoyment of the right of access to information, together with enabling accessibility and availability of timely, up-to-date, objective and factual information on State functioning and decision-making

Bahrain Human Rights Observatory, an NGO without consultative status, also shares the views expressed in this statement.

[1] The latest of these workshops took place on March 3rd, 2016 and was attended by various stakeholders including civil society and members of the Parliament.

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Human Rights Council
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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Human Rights Now, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.16-02547(E)

Please recycle

Gross Violations of International Human Rights and Humanitarian Law in Iraq

1. Introduction

It has been about 13 years since the outbreak of the Iraq War in March 2003. However, the country is still in chaos, and public security remains unstable even now.
Human Rights Now (HRN) expresses its grave concern over the present human rights situation in Iraq. According to the latest OHCHR/ UNAMI report on 5 January 2016, civilian losses are becoming serious, with 18,802 people killed, 36,245 injured, and 3.2 million displaced.[1]
In January 2016 alone, 490 people were reported to have been killed and 1157 wounded.[2] Most of these casualties are caused by grave violations of human rights which may constitute genocide, crimes against humanity, and war crimes.

2. Human Rights Violations in Iraq

(1) Civilian persecution by ISIL

ISIL, which controls an area from central Iraq to northern Syria, forces obedience among the population it controls and commits grave human rights violations. In March 2015, an OHCHR report concluded that members of ISIL may have committed genocide, war crimes, and crimes against humanity against ethnic and religious minorities.[3]

According to the latest OHCHR/UNAMI report,[4] ISIL has executed ISF, former ISF, police officers, journalists, and even homosexuals. The methods of execution are cruel as well, including shooting, decapitation, running over by car, burning, pushing off a building, etc. The report also records many kidnappings by ISIL, including of children, many of which are made into fighters. It further reports ambushes, attacks, and killings of citizens fleeing persecution.[5] The report also found about 3,500 citizens are currently treated as slaves in ISIL controlled areas.[6]

(2) Persecution against minorities such as Yezidis

ISIL continuously targets specific ethnic or religious minorities including Yezidis, Christians, Turkmens, and Shiites, and subjects them to physical, sexual and other forms of brutal violence. Among these groups, Yezidis, in particular, have been systematically targeted by ISIL. ISIL members label Yezidism as "Satanism," either executing them or forcing believers to convert to Islam, as well as commit widespread sexual violence against Yezidi women and girls.[7]

Based on interviews with Yezidis women and girls from 12 to 30 years old, HRN found that Yezidi women and girls

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[1] HUMAN RIGHTS Office of the United Nations High Commissioner for Human Rights /UNAMI, "Report on the Protection of Civilians in the Armed Conflict in Iraq:1 May-31 October 2015," 2016.1.5, http://www.ohchr.org/Documents/Countries/IQ/UNAMIReport1May31October2015.pdf.
[2] "UN Casualty Figures for the Month of January 2016," 2016.2.1, http://www.uniraq.org/index.php?option=com_k2&view=item&id=5147:un-casualty-figures-for-the-month-of-january-2016&Itemid=633&lang=en.
[3] "ISIL may have committed genocide, war crimes in Iraq, says UN human rights report," 2015.3.19, http://www.un.org/apps/news/story.asp?NewsID=50369#.VrGt16Nf3cs.
[4] OHCHR/UNAMI, *supra* n.1.
[5] "Violent attacks reported against civilians fleeing ISIL-controlled areas of Iraq–UN human rights office," 2015.7.28, http://www.un.org/apps/news/story.asp?NewsID=51517#.VrGvoqNf3cs
[6] OHCHR/UNAMI Report, *supra* n.1.
[7] Amnesty International, Iraq: Yezidi women and girls face harrowing sexual violence, 2014.12.23, https://www.amnesty.org/en/latest/news/2014/12/iraq-yezidi-women-and-girls-face-harrowing-sexual-violence/

are raped through forced marriage, allotted as 'gifts', and sold repeatedly by ISIL fighters, thereby subjecting them to repeated sexual assault and rape.[8]

In November 2015, the bodies of about 120 Yezidis were found outside of Sinjar District, which Kurdish Peshmerga had regained from ISIL.[9] The latest OHCHR/UNAMI report notes that although about 2,200 of 5,800 kidnapped Yezidis have been released or escaped from ISIL control, many Yezidis are still kept as slaves.[10]

(3) Violations Committed by the Iraq Government, Iraq Security Forces (ISF), and Shiite Militias

Discrimination and persecution against Sunnis committed by the government and its forces have continued for decades until the present. Immediately after the 2003 Iraq war, the Iraq government, ISF, and *Shiite* militias began persecuting Sunni Muslims. The persecutions have been systematic and widespread, and the forms include extra-judicial killings, torture, other forms of violence, arbitrary arrests, and detentions.[11] A 2006 UNAMI report detailed such violations and analyzed the main aspects of human rights violations, such as that "[m]ilitias, at times linked to political parties which are also part of the Government, continue to operate outside the law; death squads and sectarian and religious extremists are equally prone to commit human rights violations."[12]

These decade-long violations have de facto contributed the emergence of ISIL; however, further escalations of ethnic violence against Sunni Muslims have been reported. According to the latest OHCHR/UNAMI report, government-backed armed groups are killing and kidnapping civilians and destroying infrastructure.[13] Shiite militias reportedly committed numerous massacres in various Sunni communities in Iraq.[14]

Further, the Iraqi government and ISF attack civilians in the name of the "fight against terrorism," causing civilian deaths. In August 2015, a government warplane dropped three barrel bombs on Fallujah city's maternity hospital and destroyed the hospital. At least 31 people including 23 women and children were reportedly killed, and many others were severely wounded.[15]

The government recently announced it will build security fence in Bagdad to protect the city from "criminal acts of the terrorists groups,"[16] however such an apartheid-like policy may further facilitate hatred and confrontation among the population. The government has a responsibility to protect the right to life of the people in Iraq. Violations of the rights of civilians by government-supported groups cannot be justified.

(4) Acts by the Kurdish government and Peshmerga

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[8] Human Rights Now, "ISIL's Sexual Violence against Yezidi and Other Women and Girls Must be Ceased Immediately," Aug 2015, http://hrn.or.jp/eng/wp-content/uploads/2015/09/30th-HRC-ISILs-Sexual- Violence-against-Yezidi-and-Other-Women-and-Girls.pdf

[9] Al Jazeera, "Mass grave of Yazidis killed by ISIL discovered in Iraq," 2015.11.28, http://www.aljazeera.com/news/2015/11/mass-grave-yazidis-killed-isil-discovered-iraq-151128155706194.html

[10] OHCHR/UNAMI Report, *supra* n.1.

[11] http://hrn.or.jp/eng/wp-content/uploads/2014/08/Iraq-CERD-final.pdf

[12] http://www.ohchr.org/Documents/Countries/July_August06_en.pdf

[13] Ibid.

[14] Erin Cunningham, "Feared Shiite militias back in spotlight after three Americans vanish in Iraq," 2016.1.21, https://www.washingtonpost.com/world/feared-shiite-militias-back-in-spotlight-after-three-americans-vanish-in-iraq/2016/01/21/f62c51ee-beec-11e5-98c8-7fab78677d51_story.html; http://time.com/4187322/iraq-baghdad-kidnap-shiite-militia/

[15] http://www.alaraby.co.uk/english/News/2015/8/13/Iraqi-war-planes-bomb-Fallujah-maternity-hospital; http://www.foxnews.com/world/2015/08/14/iraqi-officials-airstrikes-destroy-hospital-near-is-held-fallujah-killing-22.html; The hospital was constructed as one of the projects of Japanese oversees development assistance (ODA).

[16] http://www.aljazeera.com/news/2016/02/baghdad-fence-security-measure-barrier-160210063440720.html.

Many human rights violations have been reported in regions liberated from ISIL occupation. According to Amnesty International, the Kurdish Peshmerga destroyed thousands of houses and forcibly displaced Arab communities at 13 cities in Ninewa, Kirkuk, and central Diyala in northern Iraq, which the Peshmerga recaptured from ISIL from September 2014 to March 2015.[17] These acts are alleged to be war crimes.

OHCHR/UNAMI reported that Iraqi security forces, Kurdish security forces, and their respective affiliated militias have been responsible for looting and destruction of property belonging to the Sunni Arab communities, forced evictions, abductions, illegal detention, and, in some cases, extra-judicial killings.[18]

(5) Strikes by the US-Led Coalition

There are many civilian deaths caused by air strikes by the US- Led Coalition. On 29 January 2016, US forces officially admitted that they likely hit civilians in air strikes against ISIL in Iraq and Syria from July 2014 to October 2015. The number of officially acknowledged victims killed by the US-led coalition strikes in Iraq and Syria since August 2014 has reached to 21.[19]

3. Recommendations

In Iraq, ISIL, the Iraq Government and Security Forces, the Kurdistan Regional Government and Peshmerga, the US-led coalition, and other actors have intensified their hostility and committed grave violations of human rights which may constitute war crimes and crimes against humanity.

The prevailing impunity over grave human rights violations since the US-led invasion until now has allowed continuous human rights violations targeting significant numbers of the civilian population. The international community must spare no effort to cease all violations of international human rights and humanitarian law and protect non-combatant citizens, especially ethnic and religious minorities, children, women, and IDPs.

The Iraq government as well as the international community must address the root causes of Iraq's conflict. It is essential to end sectarian conflict and promote national reconciliation and pluralism. It is also important to restore rule of law, justice, and accountability throughout the country.
HRN calls on:

(1) The Iraq Government to

(a) Immediately cease all attacks, violence, persecution, and all forms of human rights violations against minorities, in particular Sunnis Muslims, conducted by any elements of the government as well as related militias;
(b) Strictly adhere to international human rights and humanitarian law and protect civilians in conflict and liberated areas from human rights violations;
(c) Investigate all allegations of human rights violations committed by the ISF and militias and bring perpetrators to justice;
(d) Establish an effective mechanism to redress human rights violations and ensure effective remedies for victims;
(e) Make all effort to restore rule of law, justice, and accountability for grave violations of human rights;

[17] Northern Iraq: Satellite images back up evidence of deliberate mass destruction in Peshmerga-controlled Arab villages, 2016.1.20, https://www.amnesty.org/en/latest/news/2016/01/northern-iraq-satellite -images-back-up-evidence-of- deliberate-mass-destruction-in-peshmerga-controlled-arab-villages/.
[18] http://www.un.org/apps/news/story.asp?NewsID=52730#.VsAJQ-Rf3m4;
http://www.aljazeera.com/news/2015/12/iraq-sunnis-suffer-abuse-areas-isil-151204113537273.html.
[19] "U.S.-led strikes likely killed five civilians in Iraq, Syria: statement,"
http://www.reuters.com/article/us-mideast-crisis-usa-casualties-idUSKCN0V726U.

(f) Ratify the Rome Statute of the International Criminal Court in order to prevent the recurrence of grave human rights violations;
(g) Make all effort to end sectarian conflict, and promote pluralism and national reconciliation;

(2) The US-led coalition to

(a) Carry out a transparent investigation of all alleged war crimes since the beginning of the 2003 Iraq war and occupation, and prosecute those most responsible for identified crimes;
(b) Cease all violations of international human rights law and international humanitarian law;

(3) UN Human Rights Council and international community to

(a) Assist Iraq to establish rule of law and effective mechanisms to prevent further human rights violations;
(b) Support the Iraq government to end sectarian conflict and promote pluralism as well as national reconciliation.

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Human Rights Council
Thirty-first session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Human Rights Now, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.16-02548(E)

Please recycle

Fukushima: Persisting and Emerging Issues on the Fundamental Human Rights of the Affected People after the Fukushima Dai-ichi Nuclear Power Station Accident

1. Introduction

Five years have passed since the 2011 nuclear accident at the Fukushima Dai-ichi Nuclear Power Station, Northeast Japan. It released a huge amount of radioactive material—initial government estimates were 168 times the atomic bomb in Hiroshima—but the magnitude of the contamination is far beyond this. This poses serious risks to the environment and local population's health.

Nevertheless, the government response has been insufficient to protect people's rights to life and health, particularly those most vulnerable to radiation such as infants, children, and pregnant women.[1] As of January 2016, 56,338 people remain as evacuees,[2] and the government has not adequately addressed their housing rights.

2. People living in contaminated areas

Many people still live in highly contaminated areas as the government based evacuation zones on a 20 millisieverts per year (mSv/year) exposure standard, 20 times greater than the standard set by the International Commission on Radiological Protection (ICRP).

Outside the evacuation zone, the government does not provide sufficient evacuation support. It has also not provided sufficient health monitoring nor protective measures for affected people including children. Without sufficient evacuation support, poorer people have no choice but to remain in contaminated areas.

3. Human rights situation of evacuees

(1) On March 30, 2012, the government rearranged the evacuation areas into three areas. The criterion to distinguish Areas 1 and 2 was an annual radiation dose less than 20mSv/year, while Area 3 refers to "Areas where the annual integral dose of radiation is expected to be 20mSv or more within five years and the current integral dose of radiation per year is 50mSv or more."[3]

In 2015, the Japanese government decided to lift the designations of all areas except Area 3 by March 2017.[4] As a result, most evacuee support will be terminated, and compensation by the Tokyo Electric Power Company (TEPCO) will also be terminated in March 2018.[5] Without any choices, poorer citizens will be virtually forced to return to contaminated areas.

No consideration of affected communities' opinion was taken into account for this decision. Although it will cause significant risk, in particular to infants, children, and pregnant women, the government does not have any plan to mitigate health risks.

(3) Neither the government nor TEPCO has provided sufficient support or compensation for residents evacuated from non-designated areas, and government support has been limited to free housing. Even here the government decided to terminate housing support in March 2017.[6] Obviously, such decisions virtually force evacuees to return to contaminated areas.[7] Once again, evacuees' opinions were unconsidered.

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[1] Human Rights Now is an international human rights NGO based in Tokyo, Japan < http://hrn.or.jp/eng/>

[2] Japanese Reconstruction Agency on January 28, 2016, http://www.reconstruction.go.jp/topics/main-cat2/sub-cat2-1/hinanshasuu.html.

[3] Ministry of Economy, Trade and Industry, March 30, 2012, http://www.meti.go.jp/english/earthquake/nuclear/roadmap/20120330_01.html.

[4] Nuclear Emergency Response Headquarters on June 12, 2015, http://www.meti.go.jp/earthquake/nuclear/kinkyu.html.

[5] Although the initial plan was until March 2017, they have decided to extend the time for another year. Announcement by TEPCO, August 26, 2015, http://www.tepco.co.jp/cc/press/2015/1258474_6818.html.

[6] Fukushima Prefecture, February 3, 2016, http://www.pref.fukushima.lg.jp/sec/16055b/hinansya-shiensaku-tsuikakohyo.html.

[7] There is no specific aid for rental housing in the private sector after the termination, while those had been evacuees from designated areas receive it. Fukushima Prefecture Website.

3. Issues on Health

1) Lack of Surveys and Medical Care.

Japanese authorities have taken only a few measures to protect people's right to health in contaminated areas. Although many health issues need to be considered, the administration of free, periodic, and comprehensive health checks related to radiation have not been established for affected people.

People outside evacuation zones do not receive any health check related to radiation except thyroid examinations for children.[8] The only substantive heath check conducted by the prefectural government is thyroid ultrasound examinations every two years; however, it is limited to children under age of 18 who live or used to live in Fukushima prefecture. Adults and residents outside Fukushima are excluded.[9]

2) Survey Results on Thyroid Cancer

As a result of the thyroid examinations in Fukushima from 2011 to 2013, 113 children were diagnosed with or believed to have thyroid cancer.[10] In the second survey in 2014, 39 children were added.[11]

The fact that the 2014 survey found new cases among children not diagnosed by the first survey suggests that these new cases were caused by radiation. However, both Fukushima Prefecture and the government deny this view, underestimating the risks of radiation.[12]

The government provides no proper guidance regarding radiation risks. Instead, it has reiterated its position that there is "no evidence of physical harm under 100mSv/year."

4. Persistent failure to implement relevant UN recommendations

Mr. Anand Grover, UN Special Rapporteur on the right to health, submitted a report on this issue to the 23rd Human Rights Council in May 2013.[13] In the report, SR Grover expressed grave concern over the right to health of affected people and recommended the Japanese government take comprehensive measures.

SR Grover noted that epidemiological studies set no low-threshold limit for radiation cancer risks, and radiation dose limits shall have the least impact upon people's right to health, taking into account the greater vulnerability of groups like pregnant women and children. Based on this, SR Grover made recommendations such as to "Formulate a national plan on evacuation zones and dose limits of radiation by using current scientific evidence, based on human rights rather than on a risk-benefit analysis, and reduce the radiation dose to less than 1mSv/year."[14]

He also stated that, "evacuees should be recommended to return only when the radiation dose has been reduced as far as possible and to levels below 1 mSv/year. In the meantime, the Government should continue providing financial support and subsidies to all evacuees so that they can make a voluntary decision to return to their homes or remain evacuated."[15]

Regarding health surveys, the SR recommended the Japanese government to "Continue monitoring the impact of radiation on the health of affected persons through holistic and comprehensive screening for a considerable length of time. […] The health management survey should be provided to persons residing in all affected areas with radiation exposure higher than 1 mSv/year."[16]

In addition, in 2014 the UN Human Rights Committee recommended that the Japanese government "lift the designation of contaminated locations as evacuation areas only where the radiation level does not place the residents at risk."[17]

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http://www.pref.fukushima.lg.jp/sec/16055b/hinansya-shiensaku-tsuikakohyo.html

[8] The Fukushima prefecture provides "Comprehensive Health Checks" and "Mental Health and Lifestyle Surveys" only for the people who lived evacuation zones at the time of the accident.

[9] While it may be said that health checks are accessible to those in need when they go to hospitals on their own, people will be charged with fees when they take health checks on their own, which eliminates economically vulnerable residents from receiving sufficient health care.

[10] http://www.pref.fukushima.lg.jp/uploaded/attachment/129302.pdf.

[11] http://www.pref.fukushima.lg.jp/uploaded/attachment/143774.pdf.

[12] Announcement by the Japanese Government, http://www.kantei.go.jp/saigai/senmonka_g62.html.

[13] A/HRC/23/41/Add.3.

[14] Id.

[15] Id.

[16] Id.

[17] CCPR/C/JPN/CO/6, para. 24.

However, the Japanese government persistently fails to implement these recommendations and its recent policies are completely adverse to them.

5. Recommendations

Human Rights Now (HRN) is gravely concerned over the persistent failure of the Japanese government to protect the rights of affected people and urges the government to reform all relevant policies based on the UN recommendations.

All policies must be formulated with a victims-based and rights-based approach to:

1) Revise the 2015 decision to lift the evacuation zone;
2) Revise the 2015 decision to cease housing support for evacuees from non-designated areas;
3) Protect all affected evacuees as IDPs and provide all necessary financial and material support to ensure their rights to housing, heath, environment, and family;
4) Formulate a national plan on evacuation zones and dose limits of radiation to protect the most vulnerable people and reduce the radiation dose to less than 1mSv/year;
5) Provide funding for relocation, housing, employment, education, and other essential support needed by those who chose to evacuate, stay, or return to any area where radiation exceeds 1mSv/year;
6) Reform health monitoring policy and conduct comprehensive and long-term health check-ups for affected people living in areas with radiation doses exceeding 1mSv/year;
7) Ensure effective consultation with affected people.

HRN requests the Human Rights Council continuously monitor the human rights situation of people affected by the nuclear disaster and the implementation status of relevant UN recommendations.

HRN further requests the UN special rapporteur on adequate housing to conduct an official visit to Japan and make an effort to prevent further violations among affected people.

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Human Rights Council
Thirty-first session
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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Written statement* submitted by the Arab NGO Network for Development, a non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2016]

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GE.16-02549(E)

Please recycle

The state of human rights in Bahrain

During the 30th Human Rights Council session a joint statement by 33 member states raised the concerns of international community regarding the human rights abuses in Bahrain. This latest joint statement became the 5th issued in the HRC since 2012 that highlighted restrictive and oppressive Government acts in Bahrain.

Similarly, on February 6th, 2016 the text adopted at the European Parliament urged the Bahraini government to implement all the recommendations in the BICI report and the Universal Periodic Review, to put an end to all human rights abuses and to respect human rights and fundamental freedoms, including the freedom of expression, both online and offline, and the freedom of assembly, in line with Bahrain's international human rights obligations. The restrictions on freedom of expression and opinion were tackled in both statements, calling for an immediate and unconditional release of all prisoners of conscience, political activists, journalists, human rights defenders and peaceful protesters, including Nabeel Rajab, Abdulhadi Al-Khawaja, Ibrahim Sharif, Naji Fateel, and Zainab Al-Khawaja.

Bahrain has been witnessing unrest since 14 February 2011 that reflects the violations on human rights including political and civil, economic and social levels. The government has undermined legitimate political process, by curtailing functioning of the political societies, and arresting its leaders, cadres and many followers. It has curtailed the functioning of the civil society by dissolving some, suspending elected boards and imposing its own, depriving sponsorship and imposing many restrictions. Restrictions on the freedom of expression prevails, expression of opinion or criticism is harshly penalized where a tweet led to 5 years of prison sentence to Mr Fadel Abas. Zainab Al Kawaja is another exemplary of human rights defender, being victimized for mere practice of freedom of expression. Freedom of assembly has been curtailed, where all request for open assembly and demonstrations has been terminated since October 2014.Even limited assembly within the premise of political societies is not tolerated. Leading political figures and participants in solidarity meeting with imprisoned Sh. Ali Salman, on 28 December 2015 , were prosecuted, on the pretext of instigating hatred against the state; a charge customary for wide range of state criticism. Bahraini political and rights activists, some in exile, but majority in Bahrain, have their citizenship revoked, and eventually their off-spring. While the cases amount to 257, for those revoked citizenship, residency in their homeland is illegal, thus could be deported and the confiscation of their identification documents makes them virtually dead. Furthermore, sectarian and discriminative policies persist, including through underrepresentation at medium and high level of official administration, denial of employment in security sector and hindering promotion.

In this context, despite the call of international community and despite its human rights obligations deriving from its Constitution, international human rights treaties, Bahrain, instead of a negotiated political statement, continues to implement repressive policies resulting in severe human rights violations on the ground. ANND and BHRO call UN member states to address human rights situation in Bahrain in a special session and urge Bahraini government to enhance its cooperation with the Human Rights Council, the Special procedures and the treaty bodies and to implement recommendations received during its first and second cycle Universal Periodic Review.

Bahrain Human Rights Observatory, an NGO without consultative status, also shares the views expressed in this statement.

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Human Rights Council
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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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Please recycle

ASIA: Situation of human rights defenders in China, Thailand, and Bangladesh

The Asian Legal Resource Centre wishes to direct the attention of the Human Rights Council to the critical situation of human rights defenders in China, Bangladesh, and Thailand. While this Council is holding its 31st Regular Session, human rights defenders in these three countries are facing dire threats to their person and profession.

Members of the Council, at least 290 lawyers are currently being held in detention in China, for nothing more than undertaking their professional responsibilities. Many have had their licences revoked. Almost all of them have been detained in secret detention centres for periods ranging from three to six months before the government formally arrested them. Thirty-eight of the lawyers arrested are charged with serious offences like inciting subversion of State power under Article 105 (2) of the 1997 Criminal Code of the People's Republic of China. These fabricated charges lodged against the lawyers carry a punishment of five years' imprisonment, and it is highly likely that the lawyers will be convicted and punished.

China does not have a mature or refined justice system. What is portrayed as the justice process in China is a military trial. It is presented as a civilian justice process that begins and ends with the questioning of the accused. The Procuratorate wields more power than a judge. In such an environment, where independent judges and lawyers are absent, the State of China holds the ultimate power to decide who must and must not be convicted. In China, this justice process is used to silence those whom the government perceives as opposition to the absolute power of the State. The first on the list are independent lawyers and various other civil society actors.

The National Council for Peace and Order, a cover created by the Thai military after the 12th military coup in Thailand, shares characteristics with its Chinese counterpart. The coup in Thailand witnessed to arbitrary arrests and detention of lawyers and human rights defenders. This continues up to the present time. The clampdown on free speech in Thailand has been harsh. For the first time in Thailand's history there is regular disruption of academic freedom. As a result, teachers in the universities are worried about what they exchange with students in classrooms.

Human rights defenders and lawyers in Thailand undertake their work under extremely hazardous conditions. Many are prevented from traveling outside the country, having had their passports seized by the government. Like their Chinese counterparts, human rights defenders in Thailand do not have any domestic protection framework. The Judiciary in Thailand is neither independent nor mature. The ALRC is of the opinion that had the Thai Judiciary been developed, the coup in Thailand would not have been possible.

Bangladesh, another member of the Human Rights Council, is today a state where human rights defenders face organised, State-sponsored persecution. For the past year, not one independently operated human rights organisation in Bangladesh has been spared government persecution. Today, conditions are such that independent journalists in Bangladesh face arrest, imprisonment, or death, if they dare criticise the government.

The Judiciary in Bangladesh is perhaps the best ally of the government in suppressing free speech and in repressing human rights defenders in the country. Both the Judiciary of Bangladesh and the International Crimes Tribunal (Bangladesh) has spared no opportunity to initiate contempt of court proceedings against those who have criticised some of the proceedings of the court.

It is widely believed in Bangladesh that any technology transfer by member states like the United Kingdom and Northern Ireland is used to monitor communications against human rights defenders. This breaches guarantees of privacy and professional privileges relating to communications.

Government intentionally misinterprets information gathered through the use of technology and successfully misuses the Judiciary in Bangladesh to detain human rights defenders and journalists on fabricated charges. Widespread, deep corruption and political servitude of judges are the two defining characteristics of the Bangladesh Judiciary.

Threats to human rights defenders in China, Thailand, and Bangladesh are rarely discussed in international forums like the UN. And, this is something that is widely discussed in the Asian civil society – that some member states of the

Human Rights Council have played a negative role. They have largely remained silent about reprisals against human rights defenders and lawyers in the above three countries.

Unlike some other member states of the Council, China, Thailand, or Bangladesh do not have armed conflict, and thereby maintain full administrative control, and should therefore be held fully responsible.

The ALRC would like to know whether the situation of human rights defenders in China, Thailand and Bangladesh would be taken up during the current session of the Council? Thailand, in particular, calls for immediate attention, as the UN's regional headquarters is based in Bangkok. Failure to address this, while continuing to maintain its official offices in Bangkok, is something that challenges the very legitimacy of the UN.

The ALRC and its partners in the region would like to know two things: what affirmative action has been initiated by the Council to protect human rights defenders in Thailand and whether member states of the Council would consider firm action against China, Bangladesh, and Thailand? Would pressure on these countries help to end the repression against human rights defenders in these countries?

The ALRC would like to call upon the UN Special Rapporteur on the situation of human rights defenders. Can he update the Council about specific actions the Rapporteur's office has initiated to protect human rights defenders in China, Thailand, and Bangladesh, i.e. something beyond requesting the three countries to adhere to universal human rights norms and their treaty obligations?

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2016]

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GE.16-02551(E)

Please recycle

BANGLADESH: Justice institutions need fundamental change to address torture

The Asian Legal Resource Centre (ALRC) is making its Written Submission to the 31st Regular Session of the UN Human Rights Council when the Council is about to celebrate its ten-year anniversary. Adequate attention should be paid to Bangladesh's policing system, which is guaranteed blanket immunity by the government, despite the most heinous crimes being committed by officers.

In the last ten years, the ALRC has reiterated that torture is the norm in Bangladesh's law-enforcement system. Aside from submitting numerous individual cases to the Special Procedures, the ALRC has consistently urged the Council to hold Bangladesh accountable for maintaining a torturous policing system and to protect its citizens from the torture and inhuman ill-treatment of its State-agents.

Although Bangladesh has remained a Member of the Council for more than seven years in the last decade, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has never been invited to visit the country. This indicates Bangladesh's level of non-cooperation, particularly as a party to the Convention Against Torture (CAT) and also a long-standing Member of the Council, in contrast to its voluntary pledges submitted in 2006[1] and in 2014[2] prior to the Council Membership elections.

Torture is institutionalised in Bangladesh for maintaining the so-called law and order and what operates in the guise of criminal investigation, while extortion from detainees, pedestrians, and ordinary citizens is the way of law-enforcement. State agencies routinely use torture to serve the political master of the day, for the purpose of silencing opposition and critics. Systemic torture is used by the Bangladesh Police, paramilitary forces such as the Rapid Action Battalion (RAB) and the Border Guards-Bangladesh (BGB), and the intelligence agencies such as the Directorate General of Forces Intelligence (DGFI) and the National Security Intelligence (NSI), in their respective custodies, camps, safe-houses, and secret detention centres across the country.

Law enforcement and intelligence agencies have created extreme fear in the society. In addition to the conventional methods of torture, such as the beating of limbs, giving electric-shocks, water-boarding, and keeping detainees naked in dark and extremely cold rooms or in high-voltage torture cells, the police have established a new pattern.

The police have been arresting civilians, including opposition activists and ordinary persons, and tying-up their hands and legs with handcuffs and ropes, and then proceeding to shoot at their limbs, in custody. The wounded victims are left on the floor of the police station for hours to bleed from their injuries. After massive loss of blood, the police take the victims to hospital.

In many cases, physicians then decide to amputate the limbs, due to the delay in hospitalisation. If the victims survive, they are permanently disabled. Then, the police proceed to fabricate criminal cases against the victims, to prevent them from sharing their stories to the media and human rights organisations. Additionally, their families are forced to pay bribes amidst constant intimidation and threats. None of the victims are allowed to register a complaint against the perpetrators, who are members of law enforcement agencies.

Earlier, the international community and the ALRC welcomed the enactment of an anti-torture legislation in Bangladesh. The Bangladesh National Parliament passed the "Torture and Custodial Death (Prohibition) Act-2013" on 25 October 2013. Since the enactment, however, only two cases of torture have been registered with the Magistrate's Courts under this law, in contrast to the numerous incidents of torture that routinely occur throughout the country.

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[1] Bangladesh's Voluntary Pledges submitted to the UN in 2006, can be accessed at: http://www.un.org/ga/60/elect/hrc/bangladesh.pdf

[2] Bangladesh's Voluntary Pledges submitted to the UN in 2014, can be accessed at: http://www.un.org/en/ga/search/view_doc.asp?symbol=A/69/393

In fact, the police do not register complaints alleging torture, extrajudicial executions, or enforced disappearance as the allegations are against their colleagues. If any complaint is registered with the Magistrate's Court, the police – who are the statutory investigators of the criminal cases – protect their colleagues in exchange of bribes.

The investigation of a torture case or other gross violation of human rights ends up branding the victim as a criminal. The investigation process ultimately stigmatises the victims and their families in society, as there is no form of remedy available. As a result, the complaints of torture do not proceed toward prosecution. Even during the seven years that Bangladesh was a Council Member, not a single case of torture reached the prosecutorial stage before the Judiciary.

The government deliberately recruits a group of substandard lawyers – who are active supporters of the ruling party – to work as prosecutors. This is done for the purpose of exonerating the cadres and leaders of the ruling party whose commission of crimes knows no bound until that party is ousted from office by another party's violent political outrage.

Bangladesh's Judiciary – from the Magistracy to the Supreme Court – has earned the reputation of being the extended hand of the government. The Judiciary has continuously abdicated its own power, to the extent that the Chief Justice has publicly stated that the executive is taking away all power of the Judiciary.[3] As a result, the Judiciary is left with no capacity to guarantee remedies or protection to the victims of human rights abuse. In fact, it can be said that justice institutions in Bangladesh simply do not have the ability to uphold the rule of law.

Over the years, successive governments have consistently contributed to the damage of Bangladesh's justice institutions. In order to silence dissenting voices within its jurisdiction, the rulers have made use of the torturous policing system, a coercive investigation mechanism, a substandard prosecutorial unit, and an incompetent Judiciary. Together, such malfunctioning institutions have created an ideal environment for authoritarian power to take root. Silencing citizens by using these "justice" institutions has widened the scope of earning undeserved wealth, without any risk or fear of consequences.

People's fundamental freedoms cannot be practiced in a country where justice institutions exist as a mere facade. The independent experts of the UN and the international community have witnessed these realities too.

Now, the time has come to change the human rights mechanisms. There must be a new discourse on how citizens can be protected from atrocities committed by the institutions meant to protect them.

The UN Human Rights Council, its Special Procedures and the Treaty Bodies should understand the ground realities of countries like Bangladesh. The conventional pattern of recommendations like 'investigate, prosecute, and adjudicate' needs to change following the experiences of the last ten years. The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment should not regret that the mandate has not yet been invited for a country visit to Bangladesh.

The Council should adopt a new policy for the protection of people, as immediately as possible, if it is sincere about protecting people from gross abuses of human rights.

The new policy should include effective initiatives of rebuilding justice institutions. Rebuilding does not mean constructing new court buildings, but rather rebuilding institutions and their concepts, to the extent that equality before the law and right to fair trial can be guaranteed. These institutions must never entertain impunity, which has no place in any genuine rule of law jurisdiction.

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[3] Asian Human Rights Commission, "Chief Justice speaks out against Executive usurping the power of the Judiciary" can be accessed at: http://humanrights.asia/news/ahrc-news/AHRC-STM-005-2016

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GE.16-02552(E)

Please recycle

INDIA: Woeful implementation of welfare schemes responsible for high malnutrition among children

1. The Asian Legal Resource Centre (ALRC) draws the attention of the Human Rights Council to the persistent problem of an unacceptably high level of child malnutrition in India despite a plethora of government schemes to curb the same.

2. The recently released findings of the National Family Health Survey (NFHS) - 3, 2005-06, found that 43% of Indian children are underweight. The survey found that

> *"Among children under age six years in areas covered by an anganwadi centre, one in four (26 percent) received supplementary food from an AWC, one in five received an immunization from an AWC, and one in six went to an AWC for a health check-up in the 12 months preceding the survey."*

3. In other words, only 26% children under 6 years, in the areas covered by an anganwadi centre, received supplementary food, while immunization coverage was even worse at 20%. Put the two failures together – one which makes children chronically vulnerable to diseases and the other that denies them protection from a few life threatening ones – and one has the recipe for a continuing tragedy.

4. The findings of the survey are corroborated by another study called Rapid Survey on Children (RSOC) conducted by the UNICEF in 2013 and 2014. The aim of this survey was to get interim workable figures prior to the results of the ongoing NFHS-4. The report raises serious questions about the implementation of the schemes earmarked for snatching children out of the jaws of hunger and starvation. While noticing a significant decline in overall malnutrition among children, from 42.5% to 29.4%, the report also underscores notable failures on other indicators. As many as 15% of Indian children remain wasted, while a whopping 38.7% are stunted. The RSOC data also shows that while stunting is much higher in rural areas (41.7%), urban India does not fare much better (32.1%).

5. Despite such alarming figures – that indict the government of India for woeful implementation of its schemes and programmes – the government of India is reportedly considering scrapping the National Nutrition Mission, a multi-sectoral programme earmarked for 200 high-burden districts. Any such move by the government, which has already slashed the budget for the critical Integrated Child Development Scheme by almost half in 2015-16, would add to the malnutrition woes and jeopardize many schemes aimed at saving children.

6. The Supreme Court of India has also taken cognizance of the situation and pulled up the government of India for the same. For instance, a social justice bench of the Supreme Court of India, comprising justices Madan B. Lokur and U.U. Lalit, recently criticized the government for its failure to implement welfare schemes for children belonging to the lower strata of society. The Court stressed the "mismatch" between the "wonderful schemes" the government creates and the ground realities that remain unchanged.

7. The court hauled up the union government, particularly over the serious underperformance of the 2010-11 introduced Rajiv Gandhi Scheme for Empowerment of Adolescent Girls (RGSEAG), also known as 'Sabla'. The Bench told the Additional Solicitor General (ASG) Tushar Mehta, "All the ideas you have seems [sic] OK. Government of India has wonderful laws, ideas and schemes but the things are different on the ground."

8. Though the Court stressed on Sabla, the findings of the abovementioned studies conducted by the government of India and UNICEF showcase that other schemes are being implemented equally woefully, with no mechanism for monitoring as they get implemented. They also seem to have no mechanism for redress when exposed.

9. The Asian Legal Resource Centre therefore urges the Council to:

a) Ask the Government of India to establish a mechanism for better implementation of the schemes and institutionalize a process of real time monitoring and redress mechanism.

b) Ask the Government of India to streamline various schemes meant for pulling children out of malnutrition with special emphasis on high burden districts, most of which are tribal areas.

c) Ask the Government of India to put special emphasis on the children from scheduled castes and scheduled tribes – two of the most marginalized communities of India –as they form the biggest chunk of malnourished children.

d) Ask the Government of India to abandon any plans of scrapping the National Nutrition Mission, as such a move would hit the children from the scheduled castes and scheduled tribes the hardest. The government of India must, in fact, strengthen the Mission to address alarming levels of malnutrition in these communities.

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Please recycle

INDIA: A country afraid to prevent custodial torture

Six years have passed since the lower house of the Indian Parliament passed the Prevention of Torture Act, 2010. The upper house of the Parliament, which reviewed the law after a broad consultation, recommended thorough revision of the law. Since then, the government has shelved the law and nothing has been heard about it since.

Prohibition of torture is not the policy of the Indian State. The Prevention of Torture Act, 2010, is a riveting example of this. The law fails to meet standards, in adequately defining torture and in prescribing appropriate process of investigation of complaints of torture, rendering the law useless, even if it is passed.

Policy makers in the country believe that without the use of torture, India cannot be policed. Public statements repeatedly made by police officers, bureaucrats, ministers, and judges confirm this. India's policing policy is premised around the image of a rough and tough cop, who is expected to show no mercy to the suspect. A large number of Indian public believe that police officers have the right to torture, and that torture is a legitimate method of crime investigation, and use of force is an effective instrument for law enforcement. It is common for police officers to assault people as a part of maintaining law and order.

Judges, particularly those in the lower Judiciary, believe that it is morally wrong to challenge a police officer on the question of torture. This is because the judges are aware that the crime investigation agencies in India often do not have any means to investigate crimes apart from resorting to the use of force. Therefore, even when a detainee complains about physical abuse by the police officer, magistrates ignore the complaint, fail to record the complaint, and fail to provide the basic protection to which that detainee is entitled during custody against torture, i.e. a medical examination.

Crime investigation in India, overwhelmingly, depends on oral evidence. The country does not have even one per cent of the facilities required to undertake modern crime investigation. Due to this, witnesses too are tortured in India.

All efforts to urge India to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment should therefore be linked to efforts to redesign the country's criminal justice mainframe. India should be encouraged to revise its policing policy, and to invest substantially to procure modern crime investigation technologies. India should also be encouraged to reduce its people to police ratio, which, at the moment, is a police officer for every 810 people, a ratio more than two times wider than the global average.

Similar efforts must be made to improve the criminal justice process in India, particularly to address the large divide in the judge to people ratio, which, at the moment, is 13 judges for a million people. This is one of the reasons for decades long delays in criminal trials in India. Modernising the Indian police without addressing scandalous delays in criminal trials will render the modernisation process a futile exercise.

It is equally important for India to redesign its policing laws. Police laws in India are based on colonial legalisations, drafted at a time when the police was primarily understood and expected to function as the administrator's agent that maintains order, most importantly to supress public protests against unfair and arbitrary actions of the British Empire.

Suppression of freedom and dignity and enforcement of obedience were the primary objectives of the Irish Constabulary model of policing that was introduced to the British colonies including India. Policing in India therefore contradicts with respect to human dignity, freedom, and individual rights, founding principles of the Indian Constitution. The spirit of democracy that India claims it strives to uphold is constantly under threat, as long as India does not radically redesign its policing architecture.

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GE.16-02554(E)

Please recycle

INDONESIA: Minority religion and belief yet to be protected by government

1. The Asian Legal Resource Centre (ALRC) wishes to draw the attention of the UN Human Rights Council (UNHRC) to the repeated violations taking place against minority religions and beliefs in Indonesia. In the last two years, congregations of Ahmadiyya, Christian, Gafatar, and even Muslim communities, have all been targeted.

2. During Indonesia's Universal Periodic Review (UPR) in 2012, and its Human Rights Committee review in 2013, the persecution and lack of protection of minority religions was a key point for evaluation and recommendation. Nonetheless, up until now, the government has yet to show any progress in improving protection for minority groups. Furthermore, there are many controversial rules and regulations existing in the Indonesian legal system, such as the Blasphemy law, and various local regulations (*peraturan daerah*) prohibiting Ahmadiyya and other minority religions and belief. The government has not undertaken any legal review to ensure Indonesia's legal system is in line with human rights norms.

3. On 19 January 2016, an intolerant mob attacked members of the Fajar Nusantara Movement (Gafatar), a religious minority, burned down houses, and forcibly evicted members of Gafatar from the Motong Panjang Village, Menpawah District, West Kalimantan Province. Fajar Nusantara was founded in January 2012 and its members are in 14 Indonesian provinces. Prior to the attack, the Indonesian Ulama Council (MUI), a national association of Islamic clerics, stated that Gafatar is heretic and associated with al-Qiyadah, an organization founded in 2007. In 2008, al-Qiyadah's leader was prosecuted under Article 156(a) of the Indonesian Penal Code (KUHP) in relation to blasphemy, and he was sentenced to four years' imprisonment. Subsequently, in June 2015, six members of Gafatar in Aceh Province were also prosecuted under Article 156(a) of KUHP and sentenced to four years' imprisonment.

4. According to data provided by the Commission for Disappearances and Victims of Violence (KontraS), on 23 January 2016, around 300 IDPs of the Gafatar community from East Java province arrived in Transito Camp in Surabaya City, East Java Province. The next day, January 24, the National and Political Unity Office (KESBANGPOL) of the Ministry of Home Affairs, issued seven official letters concerning restrictions for Gafatar members. The essence of the letters was that the Gafatar cannot leave the refugee camp or communicate with people without the consent of the security forces.

5. Gafatar refugees staying in the Panti Sosial Bina Insan Budaya Cipayung Refugee Camp, East Jakarta, suffer from hunger and malnutrition. So far, the local authority has only provided instant noodles to the camp. In Central Java Province, hundreds of military personnel and police equipped with guns are ready to receive Gafatar refugees who will land in Central Java Province.

6. The Asian Human Rights Commission (AHRC), a sister organization of the ALRC, has documented the prohibition of the Ahmadiyya group from holding Friday prayers in Bukit Duri Tebet, Jakarta, Indonesia (AHRC-UAC-084-2015). Every Friday, the intolerant Islamic Defender Front, has blocked the Ahmadis from their Friday prayers at their own An-Nur Mosque. Moreover, on 5 January 2016, the local government in Bangka Island, Bangka Belitung Province issued a letter demanding that the Ahmadiyah either convert to Sunni Islam or face expulsion from Bangka. In this case, the Bangka government officials are conspiring with Muslim groups to unlawfully expel Ahmadiyah community members from their homes.

7. Threats against Ahmadiyya congregations in Bangka Island continue, after hundreds of local community members protested and threatened the secretariat of the local Ahmadiyya Community. The Ahmadi children are also threatened by other children and teachers in Srimenanti School, demanding the Ahmadi children leave the school and find another one.

8. Considering the lack of protection of minority religions and beliefs, and the repeated persecution against them in Indonesia, the ALRC respectfully requests the HRC to:

a. Urge the government to ensure protection for minority religions and belief, and ensure that all those who brutally attack or discriminate against minority groups are held accountable under the law;

b. Urge the government to review and audit its national laws, some of which are controversial and discriminatory in nature, such as the blasphemy law, and local regulations prohibiting Ahmadiyya and other minority religions;

c. Convince the government to officially invite the UN Special Rapporteur on freedom of religions or belief to visit Indonesia.

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Please recycle

INDONESIA: No effective judicial process or remedy for victims of summary executions

1. Although Indonesia's Constitution guarantees the right to life, the Asian Legal Resource Centre (ALRC) wishes to inform the UN Human Rights Council that summary executions occur frequently in Indonesia. The targets are most often indigenous people and human rights defenders.

2. Over the past year, the ALRC's sister organization, the Asian Human Rights Commission (AHRC), has documented and reported ten cases of summary executions in Indonesia. A majority of these crimes occurred against rights defenders in the mining and plantation sectors, while others occurred due to lack of protection to local indigenous inhabitants, facing loss of control over land and resources. The lack of active law enforcement in these cases has strengthened impunity.

3. Amongst the cases of summary executions of human rights defenders fighting for land rights and environment documented by the AHRC is that of Mr. Indra Pelani (22), a land rights activist from Pelayang Tebat Village, Lubuk Mandrasah Sub-District, Tebo Regency, Jambi Province, Indonesia. On 27 February 2015, Mr. Indra was summarily killed by the security of Wira Karya Sakti Company (also known as PT WKS) (AHRC-HAC-004-2015).

4. Many of the perpetrators in these summary killings are State law enforcement agents. This is so in the murder of Mr. Jopi Teguh Lasmana Peranginangin (39), an environmental activist, who used to work with the Indigenous People's Alliance of the Archipelago (AMAN). He was murdered by Indonesian Navy personnel due to his campaign against a plantation company that confiscated land from local farmers (AHRC-UAC-080-2015). The investigation into his murder conducted by the Navy military police has only named one Navy personnel as a suspect, even though according to witnesses there were more than five perpetrators. Investigators have not shown serious intent to solve the case.

5. The attack on Mr. Salim and Mr. Tosan in Selok Awar-awar Village, Lumajang Regency, East Java Province is another example of the danger posed to land rights activists (AHRC-UAC-130-2015). On 26 September 2015, the two activists were attacked by thugs. These men were ordered and supported by the Head of Selok Awar-Awar Village, Mr. Hariyono, and police officers of Pasiran Police Sector. The attack resulted in the death of Mr. Salim, while Mr. Tosan was seriously injured and subsequently admitted to a local hospital.

6. The AHRC has also documented and reported on the persecution and murder of local indigenous Papuans by the Indonesian security forces. Most of these cases have yet to be properly investigated and prosecuted. For instance, the Paniai case of 8 December 2014, in Paniai Regency, Papua Province, where security forces brutally attacked and shot indigenous Papuans, resulted in the death of five students and injuries to 17 others (AHRC-UAC-089-2015). Despite the fact that the National Commission on Human Rights (Komnas HAM), on 7 May 2015 announced the establishment of a pro justitia investigation team under law No. 26 of 2000 on the Human Rights Court, until now no notable progress has been made. Last year, the Commission had stated that it faced budget difficulties that prevented it from even starting the investigation.

7. Since the Paniai case in Papua, the ALRC has noted that summary executions have occurred repeatedly. On 25 June 2015, police officers of Tigi Police Sector, Deiyai Regency, Papua Province, shot 10 Papuan youths, killing one, 19-year-old Yoteni Agapa (AHRC-UAC-090-2015). Subsequently, on 8 September 2015, police officers of the Tolikara Police Resort forcibly dispersed protesters of a local church congregation by shooting at them, resulting in the death of an elementary school student (AHRC-UAC-106-2015). In another case, police officers in Petra, Timika, Papua Province, were searching for a youth group allegedly creating public chaos in Petra on September 28. Ignoring proper investigation procedure, the police officers brutally shot at local residents, resulting in the death of 18-year-old Kalep Zera Bagau (AHRC-UAC-128-2015).

8. The above details reveal that Indonesia does not have a strong and comprehensive policy to ensure protection for human rights defenders and indigenous people who are subjected to murder and other human rights violations.

Furthermore, the law enforcement is not effective; most of the cases remain unpunished. In a few of them investigations are initiated, but mostly without tangible results; in only a very small number of cases, do we find light punishment.

9. Considering the repeated summary executions occurring in Indonesia and the absence of law enforcement, the ALRC respectfully requests the Human Rights Council to:

   a. Urge the Indonesian government to properly investigate all cases of summary killings, guarantee their non-recurrence, and provide remedy for victims and their families.

   b. Urge the government to fully support the National Commission on Human Rights to continue its pro justitia investigation in the Paniai case.

   c. Ensure that the government consistently implements constitutional provisions regarding protecting the right to life of all peoples, particularly indigenous peoples.

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GE.16-02556(E)

Please recycle

INDONESIA: Judicial and legal systems have failed to address torture

1. The Asian Legal Resource Centre (ALRC) wishes to draw the attention of the UN Human Rights Council (UNHRC) to the fact that torture and other cruel, inhuman or degrading treatment or punishment continues to recur widely in Indonesia. Although Indonesia is a state party to the International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), with the promulgation of Law No. 5 of 1998, torture remains routine, with only a few perpetrators being lightly punished.

2. Between 2012 and 2015, the ALRC's sister organization, the Asian Human Rights Commission (AHRC), has documented and reported 41 cases of torture and ill-treatment in Indonesia through its Urgent Appeal Desk. The perpetrators of such torture are largely police officers, military personnel, and prison guards.

3. Torture is conducted along a few patterns in Indonesia, with the most common torture pattern being that which occurs in police custody, as a method to obtain confessions from suspects. The AHRC has documented and reported one such case from Widang Police Sector, Tuban regency, East Java province. Fiki Arfiando (13), an underage victim, was tortured to death by police officers in the Widang Police Sector. The police arrested Arfiando without any arrest warrant, and, without proper investigation, forced him to confess to stealing a motorcycle belonging to his neighbor, Mr. Husen. According to the report from a local hospital, Arfiando was injured under his eye 3 x 1 cm and under his right eye 0.5 x 0.5 cm as a result of torture (AHRC-UAC-094-2015).

4. Torture also occurs frequently due to the absence of lawyers; a majority of victims cannot afford to pay for lawyers. Mr. Abdullah was one such victim who died as a result of torture, as he could not afford a lawyer. Police officers of the Municipality Police (Polrestabes) and the Tamalate Police Sector (Polsek Tamatale), Makassar, South Sulawesi Province, repeatedly beat and slashed Mr. Abdullah as he refused to confess to stealing a motorcycle and laptop (AHRC-UAC-137-2015). This led to this death.

5. Another pattern of torture is that related to revenge. In the case of Mr. Aslin Zalim (AHRC-UAU-006-2015), who was tortured to death in Bau-Bau Regency, South East Sulawesi Province, for instance, Mr. Aslin was tortured for redirecting vehicles in traffic at a time when Joko Krisdianto, Chief of Bau Bau Police Resort was stuck on the road. Subsequently, Joko was angry and telephoned his subordinate to arrest Azlin. In another case documented by the AHRC, (AHRC-UAC-003-2016), due to ill-feelings towards local Papuans, police in Papua arbitrarily arrested and tortured three indigenous Papuans, Elieser Awom (26), Yafeth Awom (18), and Dan Soleman Yom (24). According to the victims, the police officers consumed alcoholic drinks before and during the acts of torture.

6. As seen in several cases already mentioned, torture frequently results in the death of victims. In the last one year, the AHRC has documented seven cases of torture resulting in the death of the victims. One such case reported in 2015, is based on torture that occured in 2011 in Samarinda City, East Kalimantan Province, of 16-year-old Ramadan Suhuddin (AHRC-UAC-065-2015). Ramadhan and his six friends were arrested due to alleged motorcycle theft, and they were arrested and brought to Samarinda Municipality Police Office, without any arrest warrant. Since 2011, the legal process is ongoing. The process is moving slowly, and Ramadhan's family has yet to get justice.

7. Over the past year, the ALRC has also noted that the torture of drug dealers has been frequent. Two such cases have been documented by its sister organisation: one involves the brutal torture of Mr. Suhaili by the Police Drug Force of Bangka Police Resort, which resulted in his death (AHRC-UAC-097-2015), and the others involves the burning alive of drug dealer Mr. Sudirman by Brigadier Sony Saputra, a police officer of the Karimun Police Resort (Polres Karimun), and the Brigadier's friends. Mr. Sudirman's case showed that police officers are also involved in the illegal business of selling shabu-shabu (crystal methamphetamine) and marijuana (AHRC-UAC-095-2015).

8. The Indonesian Government has taken baby steps to address the inadequacies of the legal system in dealing with torture. Indonesia's new penal code has been in the drafting process for around 10 years, and, as of now, only the

first chapter has been completed. The AHRC, along with its local partners, has been trying to lobby for the regulation of punishment of torture in the new penal code. While far from ideal, such a provision has recently been made.

9. The promulgation of Law. No 16 of 2011 on Legal Aid has yet to make it effective in reducing torture, especially torture in police custody. Though the law mandates the government to provide a State budget and appoint pro bono lawyers to assist suspects, in practice the provisions remain unclear. Moreover, the police and public prosecutor have yet to officially adopt the law. The Minister of Law and Human Rights should therefore prioritise integrating the law into the internal policy of law enforcement agencies.

10. Besides the slow drafting of the new penal code, the ALRC also notes that the Parliament has refused to consider a torture bill in the national legislation program, arguing that punishment of torture cannot be separated from the new penal code, and therefore a separate bill on torture should not be considered.

11. In view of the above, the ALRC requests the Human Rights Council to urge the Indonesian government to:

    a. Ensure that punishment of torture is regulated in the new penal code, providing adequate remedy for victims and their families;

    b. Guarantee legal assistance to all those who cannot afford to pay for lawyers, at every stage of the legal process;

    c. Conduct comprehensive security sector reform, thus reducing the involvement of security actors in torture related crimes;

    d. Send an official invitation the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment for a country visit.

    e. Mandate that any evidence obtained by torturing suspects is deemed illegal and something that cannot be used to indict the suspects.

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Human Rights Council
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Human rights situations that require the Council's attention

Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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MYANMAR: A state that requires the foundations for justice institutions to be built to achieve a stable change

The Asian Legal Resource Centre congratulates the people of Myanmar for successfully and peacefully electing a democratic government through national elections held in November 2015. The country and its people are, however, for all practical purposes still under the influence of militarisation that has gripped the country since 1959. For instance, the people of Myanmar and their institutions do not have a memory of independent justice institutions.

Concepts like presumption of innocence, right to silence, and independent adjudication of disputes have never been given a chance to take root in the country. Instead what is rooted is the dependence upon the patronage of the powerful, a character that is deeply etched into the very edifices of the country's justice institutions. So much so, even professionals like lawyers and judges do not know the meaning and purpose of professional freedom.

This doesn't mean that Myanmar does not have a justice system. The singular purpose for which professionals like police officers, administrative agencies of the state, the prosecutors and the judges were used by the military in Myanmar was the subjugation of the population – to make them comply, without fail, to the presidential and military orders promulgated for the past 57 years in the country. Hence, what Myanmar currently owns is a justice system with a memory of functioning as an enforcer, rather than a deliverer of justice.

Despite the elections that have technically ended military rule in Myanmar, the country has a long way to travel to taste the true fruits of democracy, freedom, and dignity of individuals. There still exist deep divides between ethnic communities in Myanmar, which need to be bridged through reconciliation and dialogue. The country is poor, with wide income disparities between former military officers and members of the ordinary public. The Constitution is the product of military rule, which is incompatible with true notions of democracy and democratic governance.

Fundamental to changing the current state of affairs in Myanmar is a thorough overhaul of the country's justice institutions, in letter and spirit. For the culture of independence and professionalism to be established in the Myanmar's justice processes, the country should be encouraged and assisted to revise, overhaul, and build from the very basics its justice institutions.

This requires a long-term commitment from the Human Rights Council for Myanmar. While Myanmar is encouraged to ratify key human rights documents, legal professionals in the country should be provided adequate exposure to basic and advanced concepts of human rights, independence, and justice.

Judges and all other government officers in Myanmar are paid some of the lowest salaries offered in the region. Courts and other facilities for justice institutions to undertake their day-to-day work do not exist in adequate numbers in the country. Similarly, the Myanmar police and other law enforcement agencies should be demilitarised at a fast pace, failing which these vital agents of the State could form a formidable stumbling block to change in Myanmar.
The ALRC therefore urges the Council to consider the situation in Myanmar and engage with the country with adequate and nuanced understanding about the practical and existing realties in that State, and not to repeat mistakes that the UN made, despite good intentions, in Cambodia and Nepal. While ratification of key human rights treaties and the strengthening of the Myanmar National Human Rights Commission are good initiatives, it must not be presupposed that the country has basic institutions with a memory of protecting fundamental freedoms and the capacity to deliver justice.

It is not enough to train State agencies, like the police officers of Myanmar, on human rights norms and principles. The country should also be assisted at a substantial scale to setup institutional structures without which such training will be rendered a meaningless exercise.

For instance, the country does not have adequate scientific crime investigation facilities and hence investigators depend on oral testimonies to investigate crimes of all nature. In such an environment, if the police officers receive training on the absolute prohibition of torture, they will be unable to put the training into practice; this is because they will have to

resort to methods of making the accused and the witness testify to undertake the investigation, for which, so far, use of brute force is the only means.

Likewise, while it is important to instil principles against corruption through trainings and seminars to judges, prosecutors, police officers, and other State officers, such training will have no purpose, if the officers continue to receive alarmingly low pay, with which they cannot meet monthly living expenses. Therefore, human rights assistance to Myanmar must not be limited to training and ratification of human rights documents, like what the UN, and several member states of the Council, through bilateral agreements, have delivered in countries like Nepal and Cambodia.

In both Nepal and Cambodia, situations did not improve despite huge amounts of international resources being spent to improve human rights standards. In both countries, international assistance was limited to training and preaching on human rights principles, a process that failed to deliver adequate results, a mistake the Council should not promote to be repeated in Myanmar.

Today Myanmar is a receptive country to change and the people of Myanmar have proved that they can achieve what was unthinkable two years ago. What Myanmar requires now is engaging and encouraging dialogues and adequate resources and technical assistance to assist and reassure the country, and its institutions, to substantially overhaul. Any delay in this, and an approach of exclusively limiting engagements to preaching of human rights norms, will neither benefit Myanmar nor the global human rights movement.